DOCUMENT RESUME

ED 372 257 CE 066 871

TITLE	Federal Prison Industries, Inc.--Unicor. Hearing before the Subcommittee on Intellectual Property and Judicial Administration of the Committee on the Judiciary. House of Representatives, One Hundred Third Congress, First Session (March 11, 1993).
INSTITUTION	Congress of the U.S., Washington, D.C. House Committee on the Judiciary.
REPORT NO	ISBN-0-16-043637-0
PUB DATE	94
NOTE	135p.; Serial No. 15. Document contains some small type.
AVAILABLE FROM	U.S. Government Printing Office, Superintendent of Documents, Congressional Sales Office, Washington, DC 20402.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC06 Plus Postage.
DESCRIPTORS	Adults; *Correctional Rehabilitation; *Economic Impact; *Employer Attitudes; *Employment; Hearings; *Prisoners; *Unions
IDENTIFIERS	Congress 103rd; *Federal Prison Industries Inc

ABSTRACT

This document records the oral and written testimony of witnesses at a Congressional hearing on UNICOR, Federal Prison Industries, Inc., a self-supporting government corporation created in 1934 to formalize prison management efforts to provide dependable work for the greatest number of inmates. The hearing centered on concerns about providing enough work for federal prisoners to learn from it and to be kept occupied and from private sector concerns about displacing work that can be done by private firms. Witnesses included representatives of manufacturers, labor unions, prison management associations, and government agencies. Various proposals were made to increase the labor-intensive aspects of prisoner work without displacing private companies from selling to the federal government. Industry representatives opposed mandatory preference for prison work-products for purchase by the federal government. Discussion was not conclusive. (KC)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

CE

FEDERAL PRISON INDUSTRIES, INC.—UNICOR

ED 372 257

HEARING

BEFORE THE

SUBCOMMITTEE ON INTELLECTUAL PROPERTY AND JUDICIAL ADMINISTRATION

OF THE

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

MARCH 11, 1993

Serial No. 15

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☒ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
73-576 CC WASHINGTON : 1994

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-043637-0

CE066871

COMMITTEE ON THE JUDICIARY

JACK BROOKS, Texas, *Chairman*

DON EDWARDS, California
JOHN CONYERS, JR., Michigan
ROMANO L. MAZZOLI, Kentucky
WILLIAM J. HUGHES, New Jersey
MIKE SYNAR, Oklahoma
PATRICIA SCHROEDER, Colorado
DAN GLICKMAN, Kansas
BARNEY FRANK, Massachusetts
CHARLES E. SCHUMER, New York
HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
JOHN BRYANT, Texas
GEORGE E. SANGMEISTER, Illinois
CRAIG A. WASHINGTON, Texas
JACK REED, Rhode Island
JERROLD NADLER, New York
ROBERT C. SCOTT, Virginia
DAVID MANN, Ohio
MELVIN L. WATT, North Carolina
XAVIER BECERRA, California

HAMILTON FISH, JR., New York
CARLOS J. MOORHEAD, California
HENRY J. HYDE, Illinois
F. JAMES SENSENBRENNER, JR., Wisconsin
BILL McCOLLUM, Florida
GEORGE W. GEKAS, Pennsylvania
HOWARD COBLE, North Carolina
LAMAR S. SMITH, Texas
STEVEN SCHIFF, New Mexico
JIM RAMSTAD, Minnesota
ELTON GALLEGLY, California
CHARLES T. CANADY, Florida
BOB INGLIS, South Carolina
BOB GOODLATTE, Virginia

JONATHAN R. YAROWSKY, *General Counsel*
ROBERT H. BRINK, *Deputy General Counsel*
ALAN F. COFFEY, JR., *Minority Chief Counsel*

SUBCOMMITTEE ON INTELLECTUAL PROPERTY AND JUDICIAL ADMINISTRATION

WILLIAM J. HUGHES, New Jersey, *Chairman*

DON EDWARDS, California
JOHN CONYERS, JR., Michigan
ROMANO L. MAZZOLI, Kentucky
MIKE SYNAR, Oklahoma
BARNEY FRANK, Massachusetts
HOWARD L. BERMAN, California
JACK REED, Rhode Island
XAVIER BECERRA, California

CARLOS J. MOORHEAD, California
HOWARD COBLE, North Carolina
HAMILTON FISH, JR., New York
F. JAMES SENSENBRENNER, JR., Wisconsin
BILL McCOLLUM, Florida
STEVEN SCHIFF, New Mexico

HAYDEN W. GREGORY, *Counsel*
EDWARD O'CONNELL, *Assistant Counsel*
WILLIAM F. PATRY, *Assistant Counsel*
JARILYN DUPONT, *Assistant Counsel*
THOMAS E. MOONEY, *Minority Counsel*
JOSEPH V. WOLFE, *Minority Counsel*

CONTENTS

HEARING DATE

	Page
March 11, 1993	1

OPENING STATEMENT

Hughes, Hon. William J., a Representative in Congress from the State of New Jersey, and chairman, Subcommittee on Intellectual Property and Judicial Administration	1

WITNESSES

Benjamin, Maynard H., executive vice president, the Envelope Manufacturers Association of America	58
Grotefend, Michael, president, Council of Prison Locals, American Federation of Government Employees (AFL–CIO)	92
Hawk, Kathleen M., Director, Federal Bureau of Prisons	7
Kinter, Marcia Y., director, government affairs, Screen Printing Association International	54
Perry, Susan, director, governmental affairs, Business and Institutional Furniture Manufacturer's Association, Grand Rapids, MI	65
Seiter, Richard P., Chief Operating Officer, Federal Prison Industries, Inc.	28
Sullivan, Charles, national director, Citizens United for Rehabilitation of Errants (CURE)	80
Swimmer, Ross O., president and chief executive officer, Cherokee Nation Industries, Inc., Stilwell, OK	78
Zalusky, John L., economist, on behalf of the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), and head of the Office of Wages and Industrial Relations, Economic Research Department, AFL–CIO	83

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

Benjamin, Maynard H., executive vice president, the Envelope Manufacturers Association of America: Prepared statement	60
Fish, Hon. Hamilton, Jr., a Representative in Congress from the State of New York: Opening statement	5
Grotefend, Michael, president, Council of Prison Locals, American Federation of Government Employees (AFL–CIO): Prepared statement	93
Hawk, Kathleen M., Director, Federal Bureau of Prisons:	
"Prep Study Links UNICOR Work Experience With Successful Post-Release Outcome"	14
Prepared statement	9
Kinter, Marcia Y., director, government affairs, Screen Printing Association International: Prepared statement	55
Perry, Susan, director, governmental affairs, Business and Institutional Furniture Manufacturer's Association, Grand Rapids, MI: Prepared statement	68
Seiter, Richard P., Chief Operating Officer, Federal Prison Industries, Inc.: Prepared statement	30
Sullivan, Charles, national director, Citizens United for Rehabilitation of Errants (CURE): Prepared statement	82
Swimmer, Ross O., president and chief executive officer, Cherokee Nation Industries, Inc., Stilwell, OK: Prepared statement	79

Page

Zalusky, John L., economist, on behalf of the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), and head of the Office of Wages and Industrial Relations, Economic Research Department, AFL–CIO: Prepared statement 86

APPENDIXES

Appendix 1.—Statement of Hon. Jan Meyers, a Representative in Congress from the State of Kansas, March 11, 1993 103
Appendix 2.—Statement of the Coalition for Government Procurement, March 11, 1993 104
Appendix 3.—Statement of Kathleen A. Leonard, executive director, Federal Correctional Vendor's Association, March 11, 1993 107
Appendix 4.—Statement of Robert Millan, member, Board of Directors, Federal Prison Industries, March 11, 1993 108
Appendix 5.—Letter from Hon. Benjamin A. Gilman, a Representative in Congress from the State of New York, dated March 17, 1993, transmitting a statement from Stephen Heller, owner, Hiltronics Corp., undated 111
Appendix 6.—Letter from Hon. William J. Hughes, chairman, Subcommittee on Intellectual Property and Judicial Administration, to Kathleen Hawk, Director, Federal Bureau of Prisons, U.S. Department of Justice, April 8, 1993 114
Appendix 7.—Letter from Kathleen Hawk, Director, Federal Bureau of Prisons (with attachments), to Hon. William J. Hughes, chairman, May 6, 1993 116
Appendix 8.—Letter from Hon. William J. Hughes, chairman, to Sue Perry, director, governmental affairs, Business and Institutional Furniture Manufacturer's Association, April 8, 1993 (no response was received) 128

FEDERAL PRISON INDUSTRIES, INC.—UNICOR

THURSDAY, MARCH 11, 1993

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTELLECTUAL PROPERTY
AND JUDICIAL ADMINISTRATION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2237, Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives William J. Hughes, Carlos J. Moorhead, F. James Sensenbrenner, Jr., Bill McCollum, Hamilton Fish, Jr., Howard Coble, and Steven Schiff.

Also present: Hayden Gregory, counsel; Jarilyn Dupont, assistant counsel; Veronica Eligan, secretary; and Joseph V. Wolfe, minority counsel.

OPENING STATEMENT OF CHAIRMAN HUGHES

Mr. HUGHES. The Subcommittee on Intellectual Property and Judicial Administration will come to order. The Chair has received a request to cover this hearing in whole or in part by television broadcast, radio broadcast, and still photography, or by any such methods of coverage. In accordance with committee rule 5(a) permission will be granted unless there is objection.

Is there objection?

Hearing none, permission is granted.

Good morning, and welcome to this morning's hearing. This morning we will be hearing testimony on UNICOR, Federal Prison Industries, Inc. The Federal Prison Industries is a self-supporting government corporation created in 1934. The corporation was created to formalize prison management efforts to provide dependable work for the greatest number of inmates.

Inmates have always been required to work in some fashion. Federal inmates were responsible, along with military inmates, for assisting with the construction of Leavenworth Prison many years ago in Kansas. This was considered the traditional "hard labor"—"breaking rocks" to assist in construction projects.

Prisoners still take part, on a limited basis, in the construction and landscape preparation of new and modernized facilities. Inmates also still work in prison facilities in janitorial and laundry jobs. In fact, all medically able inmates, subject to security and disciplinary considerations and participation in drug and literacy programs, are available to work. The restrictions on inmate construction labor and the limited number of prison facility jobs, however,

compel the establishment of additional jobs, such as those created by Federal Prison Industries.

The work requirement prevents inactivity and imposes discipline but also is part of the effort to provide training for inmates which hopefully can be utilized upon release, thus reducing recidivism.

The understandable apprehension of violent crime and the real possibility of recidivism has resulted in more criminals being sentenced, and for longer sentences. Society continues to support more prison construction or, at least, more prisons and prisoners. This support is often without the full realization of the attendant consequences. The actual costs which follow an increase in persons incarcerated are of less immediate concern than the desire to get criminals off the street.

Once these criminals are behind the prison walls there is a precipitous drop in public interest and scrutiny. Though out of the public view, in my judgment, these prisoners are, nonetheless a reality. There is still a price to pay, not only for the taxpayer but for the prison personnel who must deal with the growing number of inmates. If we have more inmates, we must have more work for them to do. It is as simple, I think, as that.

The Federal Prison Industries program is a critical component of overall prison management. The Federal prison population now stands at over 74,000 in the Federal prison facilities and over 8,000 in contract facilities. This represents more than a tripling of inmates since 1980.

The Federal Prison Industries has been no stranger to controversy over its stated mission. Even with the corporation's inception, appropriations riders were passed preventing its entry into particular industries or purchasing certain materials to use in manufacturing. The private sector, both business and labor, continues to express great concern over the impact of UNICOR and it's understandable.

In response to the complaints of the private sector, legislative changes have been mandated for UNICOR over the past few years which have led to some modifications of operation. I hope that today we will hear about some of those changes and results which followed.

I am very aware of the impact the Federal Prison Industries has on business and labor. There will always be some impact and I suspect it has been more pronounced in the past few years because of the general economic decline. I am hopeful that the work of the Prison Industries task forces will result in mutual agreements and understandings concerning the present operations of UNICOR and its future direction.

I might say before I recognize the ranking Republican that it is a very, very difficult issue because as we downsize the military which has been a natural supplier, basically, of work for Prison Industries, and we see an astronomical increase in the number of prisoners, everybody understands that we have to keep them busy. We're at something like 141 percent of capacity now and so we have a ticking time bomb. If you don't keep them busy, that basically invites all kinds of problems. So we have a real challenge and today's hearing should be, I think, very interesting and very productive and I look forward to the testimony.

The gentleman from California.

Mr. MOORHEAD. Thank you, Mr. Chairman. I would like to commend you for scheduling this important hearing on Federal Prison Industries. I would also say that I totally agree with the statement that you made. I cannot find any area that I would disagree with you on.

I recall a few years ago when Mike Quinlan, then Director of the Federal Bureau of Prisons, was testifying before this subcommittee and he pointed out that Federal inmates had an average of four felony convictions. This graphic statistic highlighted how serious the problem or recidivism is among Federal offenders.

It is my firm belief now, just as it was then, that we need to do more to stem the rate of recidivism by somehow doing a better job of rehabilitating Federal offenders. At the very least I think that we could key our efforts on young offenders who are coming into the system for only the first or perhaps the second time and attempt to rehabilitate them before they become truly hardened criminals.

Clearly, when a Federal inmate is released back into the community he often has a very low-level job skill which coupled with the stigma of imprisonment makes it very difficult for him to find a job. This enhances the prospects of his return to a life of crime and ultimately to prison.

A recent Bureau of Prison study on post-release employment found that inmates who participate in the FPI work programs were less likely to return to a life of crime after release and were more likely to be employed. So this program has values far beyond the work they may be producing. It has value in rehabilitating offenders and thus making them less likely to be a burden on society. To be successful in the long run, FPI needs the cooperation of industry and labor.

Like the chairman, I am hopeful that positive recommendations and ideas will result from the ongoing efforts of the Brookings summit and I look forward to the testimony of our distinguished witnesses.

I would like to say that I know most of the opposition to Prison Industries has come from people in the furniture industry, not altogether, but an awful lot of it has. I think that we have to constantly be trying to diversify into areas where we really need new skilled workers that will be able to go out and get jobs. I think that's a challenge. I don't think they can give up the furniture work that's done because it is already established and it is one job that they are most able to do on an immediate basis.

When I look at industries like the television industry, I see that most of it has gone overseas. Why can't we try to at least build some plants in that area or do some of the work of that type in the areas where there are jobs available.

I would like to see us really look for new areas to kind of cut down on the opposition that we are getting from some sources. But I truly think that we are very narrow sighted if we try to cut down on prison industries and try to limit it too much just because it may compete with people that want to sell the Government products. The cost to society is just too great to let this number of people in prisons grow and grow and grow. We have a responsibility

when we take them into custody to try to train them to do something when they get out. I know those that have been in prison a half a dozen times are probably too hardened to do anything with. But boy when you get these people early, especially those that are first or second time offenders, you do have a great opportunity and it is our responsibility as a Congress and your responsibility, those of you that are involved with the administration of the prisons, to really do something to turn this thing around.

We cannot afford as a society to have such a large percent of our people in prison and going back and forth time and time again. It is a challenge for all of us. Thank you.

Mr. HUGHES. Well, thank you, Carlos, for that very, very fine statement.

The gentleman from New York.

Mr. FISH. Thank you, Mr. Chairman. I, too, am pleased that this oversight hearing on Federal Prison Industries has been scheduled. At the outset, I would like to express my appreciation to the witnesses who were scheduled to appear here this morning. Their testimony, I am sure, will greatly help the members of this subcommittee to better understand the UNICOR situation as well as that of the impacted private industries.

The existence of Federal Prison Industries presents us with a difficult policy dilemma, as you, Mr. Chairman, have recognized in your opening statement. On the one hand, we on the Judiciary Committee must be concerned about the rapidly increasing numbers of inmates in our Federal prison system. The number of Federal inmates is over 74,000 and the Federal prison system is currently operating at 141 percent of capacity. Now, this helps us to focus on the need to provide inmates with useful activities that may provide them with a marketable skill upon their release. But, as we all know, the bottom line is the need to manage large number of Federal inmates and to protect the safety of prison personnel.

On the other side of the coin are the various businesses—both large and small—that compete against UNICOR for the Federal contracting dollar. The industries most affected include furniture and furnishings, electronics, printing, envelope manufacturers, and manufacturers of apparel and textile products. The private sector looks to the mandatory statutory preference for prison-made goods as inherently unfair. Prison furniture, for example, is the 10th largest furniture manufacturer in the United States. The loss of a government contract means the loss of jobs for law-abiding American citizens and may even mean that a particular employer must go out of business.

Now, these are hard facts for our constituents to understand, particularly today. The inmates in Federal prisons are paid far less than minimum wage, no Social Security of health benefits need to be paid by their employer. Competing against prison labor in a cost sense is not a fair tradeoff, particularly given the mandatory preference in the FPI statute.

Now, as members of this subcommittee know, in 1991 the accounting firm of Deloitte & Touche was commissioned to conduct a market study on the operations of Federal Prison Industries and make recommendations to the Congress in the light of these prob-

lems. Their report was issued in August 1991. Unfortunately, the last time this subcommittee held hearings on Federal prison issues was April 24, 1991, prior to the issuance of the Deloitte & Touche report. We have never had a hearing focused on their findings. And Mr. Chairman, I am hopeful that in the near future this subcommittee will be able to hear direct testimony from those individuals at Deloitte & Touche who conducted the market study—as I understand, interviewing hundreds of people—in the hopes that their testimony can provide us with some further insights and ideas, which if I understood your testimony and that of the ranking member, Mr. Moorhead, are issues that we all look forward to.

I also take note of the fact that the Brookings Institution convened a "summit" on these issues last year. Brookings has been brokering a series of meetings involving representatives of industry, labor, and FPI. Those meetings have helped to improve communication, but they have not yet come up with a satisfactory solution to our policy dilemma. I remain hopeful that an agreement on market share ceilings can be worked out between FPI and the most severely impacted industries. This subcommittee also needs to consider the issue of offshore growth opportunities by UNICOR and whether or not FPI should pursue a role as a subcontractor.

Finally, we need to identify new products and services that will keep inmates productively engaged, but, hopefully, will have a far less adverse effect and impact on our Nation's basic industries.

Mr. Chairman, I look forward to working with you and members of the subcommittee for the solution to this difficult and complex problem.

Mr. HUGHES. Thank you, Mr. Fish.

[The opening statement of Mr. Fish follows:]

OPENING STATEMENT OF HON. HAMILTON FISH, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Thank you, Mr. Chairman. I am pleased that this oversight hearing on Federal Prison Industries has been scheduled. At the outset, I would like to express my appreciation to the witnesses who are scheduled to appear here this morning. Their testimony, I am sure, will greatly help the members of this Subcommittee to better understand the UNICOR situation as well as that of impacted private industries.

The existence of Federal Prison Industries presents us with a difficult policy dilemma, as you have recognized, Mr. Chairman. On the one hand, we on the Judiciary Committee must be concerned about the rapidly increasing numbers of inmates in our federal prison system. The number of federal inmates is over 74,000 and the federal prison system is operating at 141 percent of capacity. This helps us to focus on the need to provide inmates with useful activities that may provide them with a marketable skill upon their release. But, as we all know, the bottom line is the need to manage large numbers of federal inmates and to protect the safety of the prison personnel.

On the other side of this coin are the various businesses—both large and small—that compete against UNICOR for the federal contracting dollar. The industries most affected include furniture and furnishings, electronics, printing, envelope manufacturers, and manufacturers of apparel and textile products. The private sector looks on the mandatory statutory preference for prison-made goods as inherently unfair. Prison furniture for example is the tenth largest furniture manufacturer in the Nation. The loss of a government contract means the loss of jobs for law-abiding American citizens and may even mean that a particular employer must go out of business.

These are hard facts for our constituents to understand. The inmates in federal prisons are paid far less than minimum wage, and no social security or health benefits need to be paid by their employer. Competing against prison labor in a cost sense is not a fair trade-off, particularly given the mandatory preference in the FPI statute.

As the members of this Subcommittee know, in 1991 the accounting firm of Deloitte & Touche was commissioned to conduct a market study on the operations of Federal Prison Industries and make recommendations to Congress in the light of these problems. Their report was issued in August, 1991. Unfortunately, the last time that this Subcommittee held hearings on federal prison issues was on April 24, 1991, prior to the issuance of the Deloitte & Touche report. We have never had a hearing focused on their findings. Mr. Chairman, I am still hopeful that in the very near future that this Subcommittee will be able to hear direct testimony from those individuals at Deloitte & Touche who conducted the market study—perhaps their testimony could provide us with some further insights and ideas.

I also should take note of the fact that the Brookings Institution convened a "Summit" on these issues last year. The Brookings has been brokering a series of meetings involving representatives of industry, labor, and FPI. Those meetings have helped to improve communications but they have yet to come up with a satisfactory solution to our policy dilemma. I remain hopeful that an agreement on market share ceilings can be worked out between FPI and the most severely impacted industries. This Subcommittee also needs to consider the issue of off-shore growth opportunities by UNICOR and whether or not FPI should pursue a role as a subcontractor. Finally, we need to identify new products and services that will keep inmates productively engaged but hopefully will have a far less adverse impact on our nation's basic industries.

I look forward to working with the Members of this Subcommittee for the solution of this difficult and complex problem.

Mr. HUGHES. We are very fortunate, indeed, to have the furniture czar of the country with us on this committee. Mr. Coble.

Mr. COBLE. I am not sure I am deserving of that, Mr. Chairman. I am deeply appreciative. I thank you, Mr. Chairman.

Mr. Chairman, I will be brief. I did not come with a prepared statement, but I have made some notes as we went along and I would like to share them with those in the audience. As the chairman pointed out, I do proudly represent the furniture capital of the world and also the textile capital of the world, I might add, Mr. Chairman.

I am going to associate my remarks more with the gentleman from New York. I am not uncaring nor insensitive to rehabilitating inmates. I think it is urgently important that we do this; but, folks, I cannot for the life of me believe that the operating of FPI does not damage private-sector free enterprise. Now, I'm not suggesting that we shut down FPI. I am not saying that at all. But I think there ought to be some sort of balance that we could strike because it is my belief that the playing field is tilted in favor of the Government-sponsored, i.e., taxpayer-sponsored operation of FPI as opposed to the private sector.

I mean, many of my small furniture people borrow money to create jobs. They put their necks on the line. With a Government-sponsored program we just put more money into it, for as the gentleman from New York pointed out, no Social Security, et cetera, so obviously I think the playing fields are not fair nor equal nor equitable, and that bothers me. And I'll admit, Mr. Chairman, that I come to this hearing not objective, but very subjective. I have an ax to grind. I represent furniture people. I represent textile people in the private sector. So having said all that I look forward to hearing the testimony today, Mr. Chairman. I thank you for having recognized me.

Mr. HUGHES. I thank the gentleman. The first panel today includes Kathleen Hawk, Director of the Federal Bureau of Prisons, and Richard Seiter, the Chief Operating Officer of Federal Prison Industries, Inc. Kathleen Hawk is the sixth Director in the Bureau

of Prisons existence. She was appointed to the position on December 4, 1992, and has been with the Bureau since 1976. She received her doctorate of education in 1978 from West Virginia University. Director Hawk has held a number of positions in the Bureau including warden of the Butner Federal Correctional Institution in North Carolina. This is the first time she has had the opportunity to testify before Congress and in this subcommittee and we are very, very happy to have her this morning.

You may come forward, Madam Director.

Richard Seiter is an Assistant Director with the Bureau of Prisons and the Chief Operating Officer of Federal Prison Industries, Inc. He holds a Ph.D. in public administration from Ohio State University. He's been a warden at the Federal Prison Camp at Allenwood and the director of the Ohio Department of Corrections.

We welcome you to today's hearing. I might say that we have your statements and, without objection, they will be made a part of the record in full. We hope you can summarize for us, but you may proceed as you see fit.

Welcome, Madam Director.

STATEMENT OF KATHLEEN M. HAWK, DIRECTOR, FEDERAL BUREAU OF PRISONS

Ms. HAWK. Thank you. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today with Rick Seiter. We are here today to discuss a program that is critical to the Federal Bureau of Prisons and to the Department of Justice, and I believe to the administration of criminal justice in general, and that program is Federal Prison Industries, otherwise known as UNICOR.

I will provide you with a 5-minute summary of my testimony and submit my full testimony for the record.

To understand why Federal Prison Industries is one of the Bureau's most critical programs, I would like to begin with a brief reminder of the Bureau's mission statement to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, and appropriately secure and which provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

As you know, there is a very delicate balance between the public's need to feel that appropriate sanctions have been administered and the need to provide Federal inmates with those opportunities for self-improvement in quality core services such as medical, dietary, religious, et cetera, to fully meet the constitutionally mandated conditions of confinement. Nearly all Federal inmates that are confined today will eventually be returned to the community and we believe that the Federal prison experience should, if possible, prepare these offenders to lead a productive and crime-free life. For this reason after we ensure that we are properly protecting the public and our institutions are safe and humane, the Bureau's most pressing mandate is to provide offenders with meaningful opportunities to gain skills that they need for successful reintegration into society.

By making our institutions a "factory within a fence" as former Chief Justice Warren Burger advocated, and providing state-of-the

art substance abuse treatment, literacy programming, and vocational training, prisons are preparing inmates for successful return to the community.

Over the past several years the Bureau has been finding it increasingly difficult to balance these goals given our population increases. In 1983, just 10 years ago, the Federal inmate population was approximately 30,000 inmates. Today, as many of you have indicated, the population has climbed now to more than 74,000 inmates within our institutions and another 8,300 held in non-Federal contract facilities. The population is growing by 5,600 inmates per year. This means that by the end of this decade the population will be approaching 130,000 inmates.

This unprecedented rise is attributable to such factors as: criminal justice initiatives that have focused law enforcement and prosecutorial resources on drug law violations; mandatory minimum sentences, which have lengthened the amount of time that offenders remain confined; the elimination of parole; the reduction of good time; an increased Bureau of Prisons role in housing pretrial detainees; and an ever greater number of noncitizen inmates.

As more and more inmates enter the system and given the limited expansion capacity that the Bureau faces, the programming needs I mentioned become even more important. Federal Prison Industries is the most effective correctional management program to relieve inmate idleness and to ensure the orderly operation of Federal prisons. This program provides inmates with valuable training opportunities, creates a work ethic, and prepares inmates for reintegration back into the community.

During times of fiscal constraint and cost containment, Federal Prison Industries is extremely important to the Bureau because it is self-supporting, successfully achieving its mission without congressional appropriations. It is one of the few governmental programs which does not contribute to the burden of the U.S. taxpayers.

Congressman Moorhead mentioned the PREP study that was completed recently by the Bureau of Prisons. That's our Post-Release Employment Project; it reinforced the fact that inmates who participate in Federal Prison Industries work programs are better adjusted while incarcerated and have better post-release performance than inmates who have not participated in Federal Prison Industries.

To summarize the study results, we found that inmates who participated in Federal Prison Industries work and other vocational programming during their imprisonment showed better institutional adjustment, were less likely to be revoked at the end of their first year back in the community, were more likely to be employed while in the halfway house and in the community, and earned slightly higher wages in the community than inmates who had similar background characteristics, but who did not participate in work and vocational training programs.

The Bureau clearly recognizes that we must balance our dependence on Federal Prison Industries as a self-supporting correctional program with the need to minimize any negative impact on the private sector.

I would like to note, however, that Federal Prison Industries does contribute to the economic well-being of thousands of small business across the Nation. Last year, Federal Prison Industries sold over $417 million in products and services to the Federal Government. Of this amount, 90 percent was returned directly to the private sector through the purchase of raw materials, supplies, services, and production equipment, the construction and renovation of buildings, and the expenditure of employee salaries.

Building on our existing relationships with the private sector, it is our intent that Federal Prison Industries continues to seek mutually advantageous partnership arrangements that will offer inmate employment opportunities, as well as benefit private sector businesses.

The Bureau is very much concerned about minimizing any undue negative impact on the private sector that would result from Federal Prison Industries expansion. But, considering the continued growth of the Bureau's inmate population, it is necessary for Federal Prison Industries to expand to provide more inmate work opportunities.

Officials in Federal Prison Industries have been meeting with leaders from industry and labor over many months to discuss the different options for expansion and how they might be implemented in a cooperative fashion. Mr. Seiter will further discuss these initiatives in his comments. I am very impressed with the dedication and the talent of the individuals who have been involved in this effort, and am confident that solutions to these very difficult issues will be found. Our goals are not in conflict. We all want to provide meaningful jobs for inmates in ways that minimize the impact on the private sector.

Thank you, Mr. Chairman, for the opportunity to testify before the committee, and we look forward to your questions.

Mr. HUGHES. Thank you, Ms. Hawk.

[The prepared statement, with attachments, of Ms. Hawk follows:]

PREPARED STATEMENT OF KATHLEEN M. HAWK, DIRECTOR, FEDERAL BUREAU OF PRISONS

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you and discuss Federal Prison Industries, Inc. (FPI). With me today is Richard Seiter, Assistant Director of the Bureau of Prisons and Chief Operating Officer of FPI. Robert Millan, a member of the Board of Directors of FPI, was unable to testify and I have submitted his prepared testimony for the record.

We are here to discuss a program that is critical to the Federal Bureau of Prisons, to the Department of Justice, and I believe to the administration of criminal justice generally. That program is Federal Prison Industries (FPI)—or UNICOR as it is also known.

In my testimony I would like to review with you the role that FPI plays in the Bureau of Prisons; the astonishing growth in the prison population; the challenges that the growth poses to the BOP and specifically to FPI; and finally how we are striving to meet these challenges, while remaining sensitive to the concerns of the private sector.

Because FPI is an essential program of the Federal Bureau of Prisons (BOP), I think it is well to start with a brief reminder of the basic mission of the BOP itself: to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, and appropriately secure, and which provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. The Bureau of Prisons provides correctional services to confined Federal offenders, through a comprehensive network of prison and community-based programs. The Bureau's programs assure public safety, offer-

ing inmates the opportunities to make positive changes in their lives. A carefully managed system of policies and procedures ensures that a well trained and carefully supervised staff properly use their authority and maintain a high level of professionalism.

Even in a prison system that is not crowded, careful choices are required with respect to the programs and services made available to inmates. There is a delicate balance between the public's need to feel that appropriate sanctions have been administered and the need to provide important programs and services to the inmate population. Even when crowding is a factor, institutional operations still must embody the legal, operational and practical needs for providing programs and services to the confined population.

On an external level, the Bureau must carefully reconcile security and public safety against the need to return inmates to a society better prepared for living crime-free lives. Nearly all inmates are eventually released to the community, and their Federal prison experiences must help prepare them for that return.

As a result, after assuring public safety and safe internal operations, corrections' most pressing mandate is to provide offenders with an opportunity to gain the skills they need to function productively within their community, if they so desire. By making an institution into a "factory within a fence," as former Chief Justice Warren Burger advocated, or providing state of the art drug treatment or literacy programming, prisons are preparing inmates for successful return to the community.

This Subcommittee is well aware of the population pressures within Federal prisons from testimony presented by my predecessor, former director of the BOP J. Michael Quinlan. From 1940 through the early 1980's the number of inmates in Federal facilities held fairly steady, between 20,000 and 25,000. By 1983, just 10 years ago, the total had risen to over 30,000. Today the inmate population is nearly 75,000, with another 8,300 being held in non-Federal contract facilities. That's an annual average increase throughout the last decade of about 4,500 additional inmates. Since 1990, the total population has grown by about 5,600 per year, a level which we expect to continue through the end of the decade. This will mean that the Federal inmate population at the end of this decade will be approaching 130,000, almost double that of the end of 1991.

This unprecedented rise is attributable to six factors: 1) criminal justice initiatives that have refocused law enforcement and prosecutorial resources on drug law violations; 2) minimum mandatory sentences which have lengthened the amount of time offenders remain confined; 3) elimination of parole; 4) reduction in "good time"; 5) an increased BOP role in housing pre-trial detainees; and 6) an ever greater number of non-citizen inmates.

During the past decade, there has been a substantial increase in Federal law enforcement, prosecutorial, and adjudication activity. The average time served in prison has also increased significantly, especially for drug offenses, violent crimes, and weapons offenses. These increases result from both legislative and policy initiatives. The 1984 Comprehensive Crime Control Act (CCCA) established the United States Sentencing Commission, which developed sentencing guidelines and mandated increased penalties for "career offenders." Subsequent legislation established mandatory minimum sentences for drug trafficking and weapons offenses. This combination of mandatory minimum sentences and the Sentencing Guidelines have significantly increased the length of time served by Federal inmates. For example, average time served for drug offenses has increased by a factor of 3 (from about 20 to over 65 months).

The rise in the number of drug convictions during the 1980's reflects the additional resources devoted to Federal drug prosecutions. Currently, approximately 60 percent of the Bureau's inmates are incarcerated for drug-related offenses. In 1981, about 5,300 defendants were convicted of Federal drug offenses, compared to over 16,000 in 1990. In 1980, a Federal drug conviction resulted in a prison term 62 percent of the time; in 1990, over 85 percent of convicted Federal drug defendants went to prison.

The Bureau's prison population strongly reflects the impact of longer terms served due to imposition of mandatory minimum sentences. There are over 60 criminal statutes that embody this type of penalty, but only four that frequently result in convictions. These four principally apply to drug and weapons offenses and defendants classified as career criminals.

In order to achieve "honesty in sentencing", the Sentencing Reform Act of 1984 abolished parole and severely restricted the availability of good time credits. Good time was restricted to 15 percent of the sentence or 54 days per year (under old law good time reduced the sentence by about one third) and "vested" the good time on a yearly basis, to limit the authority of the Bureau to withhold good time.

While its primary mission is the incarceration of sentenced offenders, over the past several years, the Bureau of Prisons has steadily increased its assistance to the U.S. Marshals Service in housing unsentenced Federal pre-trial detainees. During the last decade, the Federal detainee population has grown by over 400 percent. Due to the loss of Federal detention bed space in State and local facilities faced with their own population increases, the average daily detention population in the Bureau's institutions has increased over eightfold, from 844 in 1980 to over 7,000 at the end of 1992.

Criminal aliens represent 24 percent of the Bureau's inmate population, and they are another important factor in its rapid growth. The majority of these inmates come from Mexico, Colombia, and Cuba, and their differing cultural backgrounds often present unique management problems.

Because of these six factors, the Bureau's inmate population is continuing to grow dramatically at an unprecedented rate. In order to fulfill the Bureau's statutory mission and to ensure the safety of 25,000 staff, a prudent array of meaningful program opportunities are made available to the inmate population. On a practical level, work, education, vocational training and other internal programs are valuable in constructively managing the time that inmates spend in the institution. Even if there were no rehabilitative benefits to these activities, they would reduce idleness and boredom that are severely aggravated by current crowded prison conditions, and which can lead to riots and disorder that endanger public safety.

Providing a sufficient range of programs and doing so in a professional environment, is far more likely to engender positive inmate adjustment to confinement than if these daily activities were not available. I can assure you that the single most important correctional program to me, as the Bureau's director, is the prison industries program.

FPI is an effective correctional management tool. It relieves inmate idleness and ensures the orderly operation of Federal prisons. The program provides inmates with valuable training opportunities, creates a work ethic and prepares inmates for reintegration into the community.

Through work in FPI, inmates develop positive work habits such as getting to work on time, getting along with peers, learning to work for supervisors, taking pride in a product, and understanding more about how to function in an industrial environment. FPI provides perhaps the best opportunity inmates have to learn to be accountable for their actions in an environment that simulates that of the real world, in which there is a direct relationship between the quality of work and rewards received, through such FPI policies as incentive pay based on an inmate's production.

FPI is the Bureau's principal incentive to motivate inmates toward positive institutional adjustment and good behavior. No longer having such incentives as parole and good time, the industries program is one of the few ways in which inmates—even "lifers"—have something significant to lose by breaking the rules. An inmate who works for FPI and who causes a disturbance pays a high and immediate price: the loss of income—often a more serious consequence than disciplinary segregation, which is of limited duration. The chance to be an FPI employee and the desire to retain the pay and stability that FPI affords are strong motivators for good behavior.

The way in which FPI integrates with other Bureau programs strengthens them as well. For example, inmates cannot reach the higher grades of FPI's pay scale unless they are enrolled in a GED program. They are required, as a condition of FPI employment, to contribute half of their income to the Financial Responsibility Program (FRP), paying their court ordered fines, restitution, victim compensation, child support, alimony, and other legal obligations. Since 1987, more than 74,000 inmates have participated in this Financial Responsibility Program contributing a total of over $65 million. Many inmates go beyond this program by contributing regularly to the well-being and financial security of their families with earnings from FPI.

The results of a recent Bureau study, The Post Release Employment Project (PREP), answered the question of whether inmates working in prison industries or participating in vocational or apprenticeship training (study group) were more likely to succeed than their matched comparison counterparts (comparison group). The PREP Study showed:

> Study group members demonstrated better institutional adjustment than did the participants in a comparison group. Study group members were less likely to have misconduct reports within the last year of their confinement, and when they did, it was less likely to have been for serious misconduct. Study group participants were also rated by the team of staff who manage the inmates' day-to-day activities as demonstrating a higher level of responsibility than their comparison counterparts. An inmate's level of responsibility refers to his/her

level of dependability, financial responsibility, and the nature of his/her interaction with staff and other inmates.

At the point of the offender's halfway house assignment, toward the end of their sentence, both study and comparison offenders were equally likely to successfully complete their halfway house stay, although study inmates were far more likely to obtain a job.

Inmates who participated either in work or vocational programming or both during their imprisonment showed better post-release adjustment. They were less likely to recidivate by the end of their first year back in the community, were more likely to be employed in the halfway house and community, and earned slightly more money in the community than inmates who had similar background characteristics, but who did not participate in work or vocational training programs.

(More detailed information on the PREP Study is found in the attached report.)

In these very difficult budget times, it is important to note that FPI is also self-supporting, achieving its mission without one cent of Congressional appropriations. It has remained self-sufficient since 1934. It is one of the few governmental programs which alleviates, rather than contributes, to the burden on U.S. taxpayers. Over its history, FPI has returned $80 million to the U.S. Treasury. Any programs to replace FPI would have to be funded by Congress. We estimate that alternative programs could cost the taxpayer tens of millions of dollars.

FPI is also a boon to the economic well being of thousands of small businesses. Last year, FPI sold over $417 million in products and services to the Federal government. Of this amount, about 90% was returned directly to the private sector through the purchase of raw materials, other supplies, services and production equipment, construction and renovation of buildings, and the expenditure of employee salaries. Sally Ingram Whitehurst, the Vice President of the First National Bank in Terre Haute, Indiana, tells of the positive impact that FPI has on her community:

> There are over 50 businesses throughout the Wabash Valley area that supply materials to UNICOR. When you add it all up, it is $3 million that stays right at home in this community in the Wabash Valley. And, that's pretty impressive.

Building on existing relationships and developing new relationships with the private sector is our goal. It is our intent that FPI continue to emphasize partnership arrangements that will benefit both parties.

Managing the explosive growth in our inmate population will continue to demand effective correctional programming. Over the last five years this has meant some growth in FPI inmate employment and sales, but I can assure you that we have been most sensitive to the potential impact, if any, that FPI may have on the private sector. As I said earlier, the inmate population rose from an average 1988 level of 43,500 to a 1992 average of 67,300, an increase of 55%. During this same period, inmate employment rose from an average of 14,100 to only 15,400, an increase of only 10%. We have been able to manage through substantial increases in other Bureau programs, particularly drug education and drug counseling; education and literacy; occupational and technical training; public service employment for low security inmates; and institutional maintenance work. Prior to these newer efforts, the industries program often employed 30% to 40% of an institution's population, and our wardens would have liked to employ higher levels.

As we move forward during the next 7-8 years, our plans are to ensure complementary correctional programs that will enable the Bureau to meet its mission with a target employment level of 25% in the 25-30 new factories that will be activated during that time. We anticipate that total inmate employment in industries will be in the 26,000 range by the year 2000, or about 22% of the total BOP population.

The challenge of managing the projected growth in the inmate population in Federal prisons during the remainder of the 1990's can only be characterized as staggering. As correctional administrators, we received our baptism of fire during the 1980's, during which the American public's impatience with the nation's continuing crime problems led to the "War on Drugs." In addition to increased law enforcement and prosecution, resulting in higher conviction rates, the stricter Federal sentencing laws I mentioned earlier have had a major effect on the Bureau's operations. The increasing numbers of offenders who now must be incarcerated, rather than being diverted from the prison system through probation, combined with the dramatically increased length of sentences, have made the Bureau of Prisons the single largest component of the Department of Justice.

As long as the inmate population continues to increase, FPI must continue to expand by providing more work opportunities. Officials in FPI have been meeting with leaders from industry and labor over many months to discuss the different options for expansion and how they might be implemented in a cooperative fashion. Our goals are not in conflict. We all want to provide meaningful jobs for inmates in ways that minimize the impact on the private sector.

Thank you, Mr. Chairman, for asking me to testify before the subcommittee on this important program.

PREP Study Links UNICOR Work Experience With Successful Post-Release Outcome

May 22, 1991
Revised January 8, 1992

By
William G. Saylor and
Gerald G. Gaes

Office of Research and Evaluation

PREP Study Links UNICOR Work Experience With Successful Post-Release Outcome

By William G. Saylor and Gerald G. Gaes

This report summarizes some of the initial findings of the Post Release Employment Project (PREP) conducted by the Office of Research and Evaluation. The PREP study was designed to answer fundamental questions about the effect of prison vocational training and work experience on offenders' behavior when they are released to the community.

PREP is primarily an analysis of the differences between Federal offenders who received training and work experience (the study group) and similar offenders who did not participate in these activities (the comparison group).

The study and comparison groups were also contrasted with a "baseline" group of offenders who represented all other inmates released in the same time frame as the study and comparison offenders.

Background and Methodology

Preparation for the Post-Release Employment Project began in 1983. Data collection on post-release outcomes for more than 7,000 inmates continued, for the most part, into early 1987, although some data came in as late as October 1987.

Throughout the duration of this project, in which study and comparison inmates were released from the Bureau (1984 through 1986), about 35 percent of inmates in institutions with Federal Prison Industries (UNICOR) operations were employed by UNICOR. Currently, 32 percent of inmates in such institutions are employed by UNICOR.

We do not know whether there is an optimal level of UNICOR employment in an institution. Increasing or decreasing the percentage of inmates employed in prison industries may or may not increase the positive effects of employment. Consequently, the conclusions of this study could be influenced by the proportion of inmates employed by UNICOR.

Unlike most studies of prison vocational training or work experience, PREP is a prospective, longitudinal study. Study inmates were identified by case management staff at the institution over a period of several years. Inmates were selected for the study group prior to their release if they had participated in industrial work for at least 6 months or had received vocational instruction. The study group is composed primarily of inmates with UNICOR work experience –

57 percent had exclusively UNICOR work experience, while 19 percent had a combination of UNICOR work experience and vocational training, or apprenticeship training. The remaining 24 percent were involved in some combination of vocational or apprenticeship training.

The comparison group was chosen to be as much like the study group as possible. A comparison observation was selected specifically for each study group member from a cohort of individuals who were released during the same calendar quarter. Each pairing was based on an exact match of gender and individual security level and on the closest possible match in criminal, educational, and employment histories and characteristics of the current offense.

While the study and comparison groups were similar to each other in terms of expected length of stay, individuals in these groups were much more likely to have a longer expected length of stay than inmates in the baseline group.[1] In addition, the conviction offense for study and comparison groups tended to be more serious than the baseline group. These differences are especially significant because they underscore the fact that PREP study participants were by no means those individuals who seemed most predisposed to succeed in either a prison program or in the community after release. See Table 1 *(page 3)* for specific information on these three groups.[2]

Institutional Adjustment

An argument for continuing or even expanding industrial work opportunities in prisons is that such programs are necessary to cope effectively with inmate idleness and that they help to ensure the orderly running of correctional institutions. This is not an issue directly addressed by the PREP study. To explore this issue, a research design would have to evaluate changes in institutional misconduct patterns related to the expansion or contraction of prison industries. Comparison among prison systems that have varying degrees of industrial work programs is very difficult since prison systems are often different in many other ways as well.

In this section, we address a more focused question: ***Do inmates working in prison industries or participating in vocational training evidence better institutional adjustment than their matched comparison counterparts?***

Table 2 *(page 5)* shows the results of three measures that suggest ***study group participants did show better institutional adjustment.*** First, study group members were less likely to have a misconduct report within their last year of incarceration and, second, when they did, it was less likely to have been for serious misconduct. Third, study group participants were rated by their unit teams to have a higher level of responsibility than their comparison counterparts. An inmate's level of responsibility refers to his/her level of dependability, financial responsibility, and the nature of his/her interaction with staff and other inmates.

Halfway House Outcomes

The Bureau of Prisons contracts with halfway houses to provide qualifying inmates an opportunity, prior to the end of their imprisonment, to work in the

Table 1[1]

Comparison Among Study, Comparison, and Baseline Offenders

Severity of Current Offense[2]

	Comparison Group		Study Group		Baseline Group	
	%	# obs.	%	# obs.	%	# obs.
Lowest	7.7	(219)	7.6	(152)	11.8	(1619)
Low Moderate	34.2	(977)	30.1	(606)	38.7	(5331)
Moderate	33.9	(968)	34.8	(700)	32.0	(4400)
High	16.6	(474)	16.4	(331)	13.1	(1808)
Greatest	7.6	(217)	11.1	(224)	4.4	(602)
Total		(2855)		(2013)		(13760)

Type of Prior Commitments

	Comparison Group		Study Group		Baseline Group	
	%	# obs.	%	# obs.	%	# obs.
None	44.1	(1259)	49.5	(966)	50.5	(6952)
Minor	17.8	(507)	17.7	(356)	17.2	(2370)
Serious	38.1	(1089)	32.8	(661)	32.3	(4438)
Total		(2855)		(2013)		(13760)

Projected Length of Incarceration

	Comparison Group		Study Group		Baseline Group	
	%	# obs.	%	# obs.	%	# obs.
0-12 Months	25.3	(721)	27.0	(544)	43.4	(5977)
13-59 Months	71.6	(2045)	67.7	(1361)	53.9	(7421)
60-83 Months	2.4	(68)	4.4	(88)	2.1	(282)
84 + Months	0.7	(21)	1.0	(20)	0.6	(80)
Total		(2855)		(2013)		(13760)

[1] The results reported in this table are statistically significant. Percentages may not total 100.0 due to rounding.

[2] Offense severity categories presented above are those used by the Bureau of Prisons to classify inmates. "Greatest" severity offenses include homicide, rape, kidnaping, and espionage, while "lowest" severity offenses are primarily personal drug use and property offenses (up to $2,000).

community. This is also the first opportunity to recidivate. Although most study offenders were released through a halfway house, many of the comparison inmates were released directly to community supervision. Table 3 *(page 6)* depicts some of the important halfway house outcome information collected in the PREP study.

The variable disposition shows that ***almost the same proportion of study (83.9 percent) and comparison (83.3 percent) inmates successfully completed their halfway house stay.*** On average, study inmates spent 98.0 days in the halfway house environment prior to their release to community supervision, while comparison inmates spent 93.5 days. Table 3 also shows that ***study observations were 24.4 percent more likely than comparison observations to obtain a full-time job at some point during their halfway house stay.*** Of the 3,070 study inmates released through a halfway house, 86.5 percent obtained a full-time job, while only 62.1 percent of the 1043 comparison inmates released through a halfway house had worked at a full-time job. Study observations were also 7.7 percent more likely to obtain day labor employment (e.g., a 1-day job performing unskilled labor at a construction site). Nevertheless, both study and comparison group members who obtained employment spent the same proportion of their entire halfway house stay on their job (on average, about 4.1 and 1.5 days per week on full-time and day labor jobs respectively).

One of the responsibilities of staff at halfway houses is to provide employment counseling. As can be seen from Table 3, most offenders get jobs through their own resources. Study inmates, however, were more likely to get employment help from their friends or from an employment agency than were comparison inmates. This was true for the longest and most recently held job. Finally, for inmates who left their longest held job at the halfway house, most study offenders quit in order to get a better job, although 7.8 percent were fired and 23.8 percent were laid off. Comparison subjects were more likely to quit their jobs for reasons other than to get a better job.

In summary, at the point of halfway house release, both study and comparison offenders were equally likely to successfully complete their halfway house stay, although study inmates were far more likely to obtain a full-time or day labor job.

Post-Release Outcome

Once released to community supervision, offenders in the PREP study were followed by making phone calls to their supervising probation officers. Follow-up occurred at 6- and 12-month intervals. However, monthly information was collected over the entire interval.

Table 4 *(page 9)* shows the 6- and 12-month dispositions for study and comparison subjects. At both the 6- and 12-month follow-up points, ***study group offenders were less likely to have been revoked from supervision.*** Although not depicted in Table 4, study and comparison groups were statistically indistinguishable in their reason (parole violation vs. new offense) for being revoked at both the 6- and 12-month junctures. Nevertheless, the predominant reason for

Table 2[1]

Institutional Adjustment

Frequency of Disciplinary Reports Within the Last Year

	Comparison Group %	Comparison Group # obs.	Study Group %	Study Group # obs.
None	73.8	(766)	77.7	(587)
One or More	26.2	(272)	22.2	(168)
Total		(1038)		(755)

Type and Frequency of Most Serious Disciplinary Reports

	Comparison Group %	Comparison Group # obs.	Study Group %	Study Group # obs.
Any *"Greatest"*	2.6	(27)	1.6	(12)
More than One *"High"* within the Last 2 Years	3.5	(36)	2.4	(18)
Only One *"High"* within the Last 2 Years	10.5	(109)	9.3	(70)
More than One *"Moderate"* within the Last Year	2.9	(30)	2.4	(18)
Only One *"Moderate"* within the Last Year	8.4	(87)	9.1	(69)
More than One *"Low/ Moderate"* within the Last Year	.3	(3)	0.0	(0)
None	71.3	(740)	73.9	(558)
Total		(1038)		(755)

Level of Responsibility

	Comparison Group %	Comparison Group # obs.	Study Group %	Study Group # obs.
Poor	7.4	(77)	2.9	(22)
Average	40.7	(423)	37.5	(283)
Good	51.8	(538)	59.6	(450)
Total		(1038)		(755)

[1] The results reported in this table are statistically significant. Percentages may not total 100.0 due to rounding.

Table 3[1]

Halfway House Outcome Data

Disposition

	Comparison Group %	Study Group %
Escapes	6.8	5.2
New Arrests	0.1	0.5
Return to Custody	9.1	8.4
Successful Completion	83.3	83.9
Other	0.7	2.0
Number of Observations	(1042)	(3070)

Percent Obtaining Full-Time or Day Labor Employment[2]

	Comparison Group %	Study Group %
Full-Time Job	62.1	86.5
Day Labor Job	1.3	9.0
Number of Observations	(1043)	(3070)

Person or Agency Responsible for Finding Most Recently Held Job

	Comparison Group %	Study Group %
Halfway House	13.6	15.7
Offender	57.3	51.6
Friends	4.8	13.6
Relatives	6.8	8.2
Employment Agency	2.5	6.2
Other	15.0	4.7
Number of Observations	(646)	(2649)

(Continued on next page)

[1] The results reported in this table are statistically significant. Percentages may not total 100.0 due to rounding.

[2] These two categories, full-time and day labor, are not mutually exclusive.

Table 3 *(continued)*

Halfway House Outcome Data

Person or Agency Responsible for Finding the Longest Held Job[3]

	Comparison Group %	Study Group %
Halfway House	18.9	16.1
Offender	51.4	49.8
Friends	2.7	15.0
Relatives	8.1	6.7
Employment Agency	6.4	8.6
Other	13.5	3.8
Number of Observations	(37)	(257)

Reason Why Offender Left Longest Held Job

	Comparison Group %	Study Group %
Fired	3.0	7.8
Laid Off	9.1	23.8
Quit for a Better Job	33.3	44.1
Quit - Other Reason	54.6	24.2
Number of Observations	(33)	(256)

[3]This subtable excludes individuals whose longest held job is also their most recently held job.

revocation during each 6-month period (60 - 70 percent) for both groups was a parole violation rather than a new offense.

Furthermore, inmates who participated exclusively in UNICOR were also less likely to have their supervision revoked than were comparison group offenders. Although the magnitude of difference may seem small, the differences are both statistically significant and substantively meaningful.

At the 12-month time period, 10.1 percent of comparison offenders had been revoked, while only 6.6 percent of study offenders had been revoked. In other recidivism studies conducted by the Bureau, about 20 percent of released inmates were revoked or rearrested within a year of their release. In 1980, the percentage was 19.4, in 1982, 23.9, and in 1987, 19.2.

The differences among study, comparison, and baseline groups indicate several important conclusions: (1) Due to the research design and the matching methodology, there are characteristics of both study and comparison offenders that decrease their likelihood of recidivating; (2) UNICOR work experience and vocational training further increases the likelihood of post-release success; (3) Had we compared the study group to a normal baseline group, even with statistical controls, it is likely we would have exaggerated the differences between offenders who participated in work and vocational training and those who did not.

Table 5 *(page 10)* shows the proportion of study and comparison group offenders who were employed during the follow-up period in any given month. It also shows the average wages earned in each month, as well as the 6- and 12-month totals. Although not indicated in Table 5, there is a tremendous amount of variability in post-release wages, which is probably why most comparisons did not reach statistical significance. The table shows that study group offenders were more likely to be employed in any of the 12 months following their release to the community. At the end of 12 months, study group inmates had averaged about $200 more in wages than comparison group offenders. Although this result was not statistically significant, it seems to be a pattern worthy of continued observation.

In summary, inmates who participated in UNICOR work and other vocational programming during their imprisonment showed better adjustment, were less likely to be revoked at the end of their first year back in the community, were more likely to be employed in the halfway house and community, and earned slightly more money in the community than inmates who had similar background characteristics, but who did not participate in work and vocational training programs.

Future Analyses and Reports

The analyses discussed in this report represent only the most fundamental differences between study and comparison offenders. Future analyses will address mobility issues – the impact of prison work and vocational training on changes in occupations before, during, and after release from prison. We will also analyze specific occupational work and training effects to the extent the

Table 4[1]

Post-Release Outcome Data — Disposition[2]

Disposition - 6 Months

	Comparison Group %	Study Group %
Completed	12.7	10.0
Under Supervision	81.2	85.1
Revoked	6.2	4.9
Number of Observations	(2495)	(2236)

Disposition — 12 Months

	Comparison Group %	Study Group %
Completed	8.5	7.9
Under Supervision	81.4	85.6
Revoked	10.1	6.6
Number of Observations	(1829)	(1502)

[1]The data reported in this table are statistically significant. Percentages may not total 100.0 due to rounding.

[2]The data in Table 4 show that about 600 - 700 fewer inmates from each group were represented in the 12-month followup than in the 6-month followup. The reason for this is that when the PREP study was terminated, there were about that number of offenders still in the "pipeline" for whom no 12-month outcome data was collected.

Table 5[1]

Post-Release Outcome Data — Employment[2]

Percentage of Offenders Employed in Each of the First 6 Months:

	Comparison Group %	Study Group %	Statistical Significance
Month 1	65.6	74.7	*
Month 2	65.5	75.1	*
Month 3	65.8	74.2	*
Month 4	64.7	72.8	*
Month 5	63.7	71.1	*
Month 6	61.1	68.6	*
Number of Observations	(2506)	(2253)	

Percentage of Offenders Employed in Each of the Latter 6 Months

	Comparison Group %	Study Group %	Statistical Significance
Month 7	71.8	79.2	*
Month 8	70.7	77.1	*
Month 9	68.8	76.1	*
Month 10	66.7	74.3	*
Month 11	64.9	72.9	*
Month 12	63.1	71.7	*
Number of Observations	(1831)	(1503)	

(Continued on next page)

[1]In this table, significant contrasts are noted with an "*," while "n.s." is used to indicate "not significant." Also, percentages may not total 100.0 due to rounding.

[2]The increase in the percentage employed between months 6 and 7 for both groups is a statistical artifact. This is because the percentages are based on the number of observations still under supervision at the end of each 6-month interval. However, this does not influence the monthly comparisons between the two groups.

For the same reason, the average wages (shown on the continuation page of Table 5) diminish over each 6-month interval. This is because the wages earned during the month (the numerator) are zero for any individual who was unemployed during a month and consequently earned no money, while the number of observations (the denominator) used to calculate the average is determined by the observations still under supervision at the end of each 6-month interval. *(footnote continues)*

Table 5 *(Continued)*

Post-Release Outcome Data – Employment[2]

Average Wages Earned in
Each of the First 6 Months

	Comparison Group $	Study Group $	Statistical Significance
Month 1	668.25	723.57	*
Month 2	693.45	737.17	*
Month 3	703.32	727.80	n.s.
Month 4	701.09	733.82	n.s.
Month 5	693.12	720.77	n.s.
Month 6	676.35	701.29	n.s.
Total 1 - 6 Months	$4,135.59	$4,344.42	n.s.
Number of Observations	(2506)	(2253)	

Average Wages Earned in
Each of the Latter 6 Months

	Comparison Group $	Study Group $	Statistical Significance
Month 7	851.02	846.10	n.s.
Month 8	835.92	845.98	n.s.
Month 9	828.03	833.50	n.s.
Month 10	815.57	822.21	n.s.
Month 11	793.06	822.97	n.s.
Month 12	769.45	820.97	n.s.
Total 7 - 12 Months	$4,893.06	$4,991.72	n.s.
Number of Observations	(1831)	(1503)	
Total 1 - 12 Months	$9,665.88	$9,862.82	n.s.

[2] *(continued)* Although some individuals retained a job over the entire observation period and may have maintained, or even increased, their remuneration, the average wage for the group declined due to the increase in the number of individuals who became unemployed for some period of time and therefore earned zero dollars for those months.

Summary of the Initial PREP Findings

- *Study group members demonstrated better institutional adjustment than did the participants in a comparison group. Study group members were less likely to have misconduct reports within the last year of their confinement, and when they did, it was less likely to have been for serious misconduct. Study group participants were also rated by their unit teams to have a higher level of responsibility than their comparison counterparts. An inmate's level of responsibility refers to his/her level of dependability, financial responsibility, and the nature of his/her interaction with staff and other inmates.*

- *At the point of halfway house release, both study and comparison offenders were equally likely to successfully complete their halfway house stay, although study inmates were far more likely to obtain a job.*

- *Inmates who participated in work and vocational programming during their imprisonment showed better post-release adjustment. They were less likely to recidivate by the end of their first year back in the community, were more likely to be employed in the halfway house and community, and earned slightly more money in the community than inmates who had similar background characteristics, but who did not participate in work and vocational training programs.*

data allow. Every inmate's job or vocational training was classified according to the Department of Labor's Dictionary of Occupational Titles (DOT). These DOT codes will allow us to look at broad, as well as more refined, classes of occupations and their impact on post-release outcome.

We have also collected economic climate data. Data such as unemployment statistics, industrial sector information, and information on the demographic characteristics of the areas to which inmates were released will allow us to examine the relative impact of these economic climate data in relation to work and vocational training.

As part of the data collected on study inmates while they were in prison, work evaluations conducted by the inmates' supervisors were gathered, as well as ratings of the inmate's performance in the vocational training courses. This performance information will allow us to examine whether the intensity of the inmate's work performance affects post-release success.

Although the impact of work and vocational training in Federal prisons has produced differences that could be viewed as modest, they are nevertheless substantially and statistically significant effects. It is also possible that further analysis will show us how to optimize our training through

specific skills acquisition. It is also likely that the economic climate of an area is an important determinant of an offender's community employment. We are well aware that many ex-offenders not only must overcome low skill levels, but also the local and global conditions that compound the already formidable challenge of finding and keeping a job, given the stigma of past incarceration.

If you have any questions or comments about the information presented in this article, please contact Bo Saylor or Gerry Gaes at 202/724-3118.

May 22, 1991
Revised January 8, 1992

---

[1]Actual time served was computed for the study and comparison groups and, as one would expect, based on the projected length of incarceration, the study group served more time than did the comparison group. On average, study group inmates served about 6 months longer than comparison group inmates.

[2]All of the results in Tables 1,2,3, and 4 are statistically significant. In Table 5, significant contrasts are indicated with an "*," otherwise, "n.s." is noted for "not significant." Statistical tests in Tables 1 through 4 and the employment data for Table 5 are chi-square tests for differences in proportions. The statistical test for employment wages in Table 5 were based on t-tests of differences in group means. We have also noted in each table the different number of observations. Not all information was collected or available on all observations in this study. Furthermore, as the study progressed through the post-release outcome stages, inmates would be revoked, or otherwise "drop out" of the study (e.g., successfully complete their period of supervision).

Mr. HUGHES. Mr. Seiter, welcome.

STATEMENT OF RICHARD P. SEITER, CHIEF OPERATING OFFICER, FEDERAL PRISON INDUSTRIES, INC.

Mr. SEITER. Thank you, Mr. Chairman, and members of the subcommittee. I also appreciate the opportunity to appear before you today with Director Hawk to talk about Federal Prison Industries, or FPI. In my testimony, I intend to update the subcommittee regarding the current status of FPI and the challenges facing it. I will discuss the congressionally mandated market study and summarize the activities to bring together interested stakeholders since the issuance of that study.

At the end of fiscal year 1992, FPI employed approximately 15,900 inmates, in 89 factories, in 47 Federal prisons. Sales for fiscal year 1992 totaled $417 million. To avoid undue impact on any single private sector industry, FPI is very diversified, and produces over 150 different products. In its 59th successful year of operations, FPI continues to meet its statutory mandates of employing and training inmates, offering high quality products and services to Federal customers, and operating as a self-sufficient Federal corporation, with no reliance on appropriated funds.

FPI also continues to be an important partner to business and labor, returning over 90 cents of each sales dollar to the private sector. Nearly one-half of materials and supplies are usually purchased from small businesses.

FPI is also very sensitive to its impact on the private sector, and illustrates its sensitivity in many ways. First, FPI regularly declines to add to its product line those goods and services that will have a potentially negative impact on industry and labor. Second, there is a statutorily required public involvement process that FPI must go through before adding new or expanded products. Of the 11 recommended new or expanded products, the FPI Board of Directors has denied three. Third, FPI established the Office of the Ombudsman to hear concerns from the private sector, and to proactively reach out to business and labor.

FPI is the most important correctional program within the Federal Bureau of Prisons, and must parallel the increase in inmates in Federal Prisons. Since fiscal year 1983, the population has grown from just under 30,000 to well over 70,000 inmates. FPI's employment has increased from 7,314 to 15,900 inmates over that same period of time. To keep up with the expected growth, FPI will have to increase employment to over 25,000 inmates for fiscal year 1999. This continued demand for growth creates both a challenge to FPI and concern from the private sector.

As a challenge, FPI's only market is the Federal Government. Budget cutbacks are expected to reduce the agency's procurement, especially within the Department of Defense, which makes up approximately 60 percent of FPI's sales. Additionally, FPI must remain self-sufficient. Yet, growth of this magnitude creates a serious financial cost of building and equipping new factories. Growth brings additional concerns from business and labor, as each new market creates a new set of interested parties who often complain that FPI should not enter their markets.

In response to these concerns, Congress mandated that an independent study be done. The market study noted that FPI supplies only a small fraction, one-sixth of 1 percent, of the goods and services purchased by Federal departments. Of those products that FPI specifically produces, the share of the Federal market was only 1.9 percent. We are very pleased that this study gave FPI excellent ratings for price, quality, and compliance with specifications. However, the study concludes that FPI growth in a declining Federal Government market will continue to create controversy among private sector companies, and that there are no easy answers and no sizable opportunities for FPI to meet growth requirements through continued diversification.

Therefore, the study recommended three growth strategies. No. 1, that FPI subcontract with Federal prime contractors; No. 2, that FPI enter into partnerships with the private sector to perform certain production functions which would otherwise be done offshore; and No. 3, that FPI substantially increase its provision of services to the Federal Government.

Since the study left many questions unanswered, and dealt very little with the realities of implementation, the Brookings Institution was asked to facilitate the process of discussion and consensus building. Following formal discussions with private and public sector officials, the consensus was reached that a summit be held to involve all interested parties in discussions of a study. A 3-day summit was held in June 1992. The invitee list, which is attached to my written testimony, included well over 100 public and private sector representatives, and over 75 attended.

Two work groups were established to follow on the issues raised at this summit. One group was to examine methods of improving communications between FPI and the private sector, and the second was to look for opportunities for FPI to employ the required numbers of inmates while minimizing the impact on the private sector. There have been many meetings since that time, and I believe progress is being made.

In summary, the issue of balancing the interests of two valid concerns, ensuring the growth of Federal Prison Industries to meet the increasing demand of inmates, while minimizing the impact on the private sector, is a difficult one; however, it is my belief that FPI is doing what Congress intended it to do when it was established in 1934—employ and train inmates to prepare them for release, be diverse yet self-sufficient, and avoid undue impact on the private sector.

This is not an easy task. Staff and inmates, dedicated to FPI's success in this regard, deserve a tremendous amount of credit. Each and every day, FPI must ensure total customer satisfaction in order to sell products and services and continue to meet its statutory responsibilities. I believe that FPI is truly a Federal Government success story, as well as a critical correctional program.

Thank you, Mr. Chairman.

Mr. HUGHES. Thank you, Mr. Seiter.

[The prepared statement of Mr. Seiter follows:]

72-576 O - 94 - 2

PREPARED STATEMENT OF RICHARD P. SEITER, CHIEF OPERATING OFFICER, FEDERAL PRISON INDUSTRIES, INC.

OPENING COMMENTS

I appreciate the opportunity to appear before you with Director Kathleen N. Hawk to discuss Federal Prison Industries (FPI). Dr. Hawk has explained why FPI is essential to the Federal Bureau of Prisons, and the challenge of providing more work opportunities for the expanding prison population. In my testimony, I intend to update the Subcommittee regarding the current operations of FPI, to include the number of inmates employed, the number of factories, and the variety of products and services provided to our Federal customers. I will also expand on Director Hawk's presentation on the growth of the Bureau, and what this means for FPI, which must find new products or customers and continue to be self-sufficient in a downsizing Federal procurement market. I will discuss the Congressionally mandated Market Study of the operations of FPI and their impact on the private sector, and make recommendations for growth. Finally, I will summarize for the Subcommittee the activities that have taken place since that study in an attempt to bring together the public and private sectors to find practical solutions to the challenges of growth.

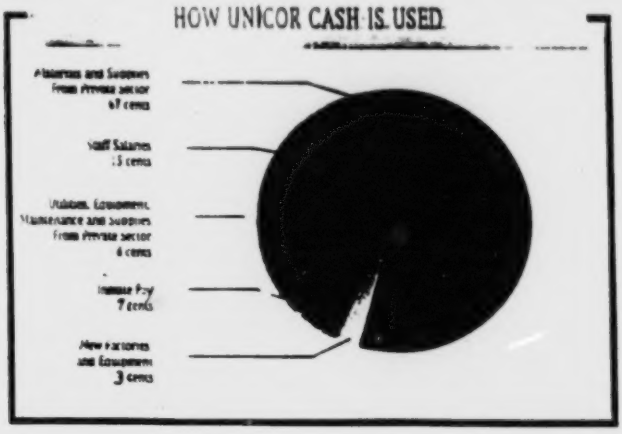
CURRENT STATUS OF FEDERAL PRISON INDUSTRIES

As noted by Director Hawk, by the end of fiscal year 1992, the inmate population in Bureau facilities grew to nearly 71,000. Of this total, FPI employed approximately 15,900 inmates at the end of fiscal year 1992. FPI operated 89 factories at 47 locations throughout the country. Average employment throughout fiscal year 1992 totaled 15,432, up from the FY 1991 average of 14,549.

Sales to Federal departments and agencies in FY 1992 totaled $417.4 million. In an effort to avoid undue impact on any single private sector industry, FPI is diversified to the point that it currently produces over 150 different products in 83 different product and services classes, and 46 entirely different 4-digit Standard Industrial Classification (SIC) industries.

In its 59th year of operation, FPI continues to meet its statutory mandates of employing and training inmates, minimizing any potential impact on the private sector, offering high quality products and services to Federal customers at current market prices, and operating as a self-sufficient Federal corporation, with no reliance on appropriated funds.

FPI also continues to be an important partner to small business, returning over 90 cents of each sales dollar to the private sector through direct purchases of raw materials, supplies, services, equipment, and salaries—which totalled over $375 million in FY 1992. Nearly one-half of all materials and supplies are purchased from small businesses.



FPI is very sensitive to its impact on the private sector. As you know, FPI may only sell its goods and services to Federal departments and agencies, a very limited (and probably shrinking) market. Facing tremendous challenges for growth, FPI must constantly look for new product or service opportunities that can be manufactured in Federal prisons and sold to government customers. However, throughout this process, FPI remains sensitive to private sector concerns. FPI staff have identified markets for many new products that were never put into production because of their potential impact on the private sector. Over the past five years, FPI has identified several new products, including various textile and apparel items, office supplies, and medical care products that have been eliminated from further consideration—either because there was a relatively small market, the market was dominated by small business, much of the domestic market had gone off-shore and the government market represented the remaining stronghold for U.S. companies, or there was a potentially shrinking government market that would put more pressure on remaining vendors.

FPI must go through a public involvement process before adding new products or significantly expanding current products. By statute, this process requires intensive private sector interaction prior to the Board's decision to allow FPI to expand. I believe that the process has kept FPI constantly aware of the impact of its actions on the private sector. Within the last twelve months, FPI has also established the Office of the Ombudsman to be a liaison between the private sector and FPI. The Ombudsman both hears the private sector's concerns and reaches out to business and labor regarding FPI activities.

Perhaps most importantly, FPI continues to employ and train inmates, preparing them for the tremendous challenges that face them in becoming productive, tax-paying, law-abiding citizens upon release from prison. The Post-Release Employment Study (PREP) cited by Director Hawk found that not only do inmates who received training and work skills while employed by FPI find jobs more quickly and earn more after release, they are also less likely to commit new crimes than their non-FPI counterparts.

As Chief Operating Officer of Federal Prison Industries, I am pleased to report to the Subcommittee that we are meeting our Congressionally mandated mission. We are employing and training inmates in Federal prisons, we are preparing inmates for release, we are remaining self-sufficient, and we continue to be sensitive to potential effects on private industry and labor.

THE CHALLENGE OF GROWTH

As the most important correctional program within the Federal Bureau of Prisons, FPI's growth parallels the growth in the number of inmates incarcerated in Federal prisons as a result of new sentencing guidelines and an increasing number of drug law violators. Since fiscal year 1983, the Bureau's population has grown from an average of 29,880 to 67,301 (an increase of 225%) for fiscal year 1992. As indicated in the chart below, FPI employment has increased from a fiscal year average of 7,314 to 15,432 (an increase of 210%) over the same period.

IE&VT HISTORICAL TRENDS

FISCAL YEAR	TOTAL * BOP POP	FPI * EMPLOY
1983	29,880	7,314
1984	31,396	8,390
1985	33,948	9,461
1986	39,105	11,539
1987	42,437	14,161
1988	43,502	14,115
1989	47,638	13,301
1990	55,749	13,581
1991	61,364	14,549
1992	67,301	15,432

* Averages

The Federal prison population is expected to continue to grow at a rate in excess of 10% a year throughout the 1990's. To keep up, FPI will have to increase its employment to an average of over 25,000 inmates for fiscal year 1999. This continued

demand for growth creates both a challenge for FPI and concerns for the private sector.

FPI's only market is the Federal government, and budget cutbacks are expected to reduce agencies' procurements, especially the Department of Defense, which makes up approximately 60% of FPI sales. Additionally, FPI must remain self-sufficient. Yet growth of this magnitude creates a serious drain on funds for building and equipping new factories. Continued diversification adds additional costs for product development, marketing and sales, customer service, and product losses that generally result during the first few years after entry into a new market. All of this creates an environment that seriously threatens FPI's ability to remain self-sufficient. Finally, growth brings additional concerns from business and labor, as each new market creates a new set of interested parties who often complain that FPI should not enter the market for products that they currently sell to the Federal government.

In response to these issues, Congress mandated that an independent study be done to identify the current impact of FPI on the private sector, and target opportunities for growth that minimize such impact. This study was completed and delivered to Congress in August, 1991. Since that time, there has been much discussion of the study's findings and recommendations, and we are hopeful that Congress can consider the report and the results of these discussions in the near future.

THE CONGRESSIONALLY MANDATED MARKET STUDY

There were three purposes to the Market Study: 1) to identify products and markets for FPI that will have a minimal impact on private sector industry; 2) to assess the impact that FPI has had on the private sector in the past; and, 3) to determine whether the laws that control FPI's procurement process need to be changed.

To appreciate the genesis of the recommendations, it is necessary to understand the backdrop against which they were made. First, as you know, FPI's sole customer is the Federal Government, a market that has been declining and will probably continue to decline. Second, many of the industries in which FPI operates are increasingly affected by imports, leading some companies in these industries to a greater dependence on the Federal marketplace. Third, many of these same industries have an increasing concentration of small businesses. Fourth, FPI must increase its employment and training of inmates over the next 8 to 10 years to keep up with the dramatic influx of additional Federal offenders.

Before addressing the recommendations in the study, I would first like to emphasize several findings made by Deloitte & Touche. More than 70% of FPI customers interviewed or surveyed indicated that the FPI preference was the primary reason for utilizing FPI products. Yet, the Market Study found that FPI supplies only a small fraction of the goods and services purchased each year by Federal departments and agencies. In 1990, the Federal Government is estimated to have purchased over $191.2 billion worth of goods and services. Of this total, according to the Market Study, only one-sixth of one percent was purchased from Federal Prison Industries.

The Market Study examined the 83 product and service classes in which FPI produces, and concluded that, even in this narrower universe of government procurement, FPI's share of the Federal market is only 1.9 percent. Furthermore, since some private firms also have the much larger market outside of the Federal Government available to them, the Market Study also examined FPI's impact on the broader economy and concluded that in the industries in which FPI operates, FPI has less than one-tenth of one percent of total U.S. production, and that its impact on U.S. industries has not been significant.

We are very pleased that the Market Study gave FPI excellent ratings for price, quality, and compliance with specifications. FPI receives its highest ratings for custom products—those built to the customer's specifications—but also receives above average quality ratings for items such as electronics assemblies for military equipment. The Market Study concluded that FPI follows product design, testing, and quality specifications across its product lines. Also, FPI prices were found to be comparable to private sector vendors. In general, the Market Study confirms the positive results of previous examinations of FPI's price, quality, delivery, and customer service which were conducted by the House of Representative's Judiciary Subcommittee on Courts, Intellectual Property and the Administration of Justice in early 1990 and by a General Accounting Office (GAO) audit of FPI in 1985.

In spite of these high marks, the Market Study concludes that FPI growth in a declining Federal government market will continue to create controversy among private sector companies, which could eventually undermine the very reason for FPI's existence—to operate a correctional program charged with employing and training

a substantial percentage of the rapidly growing Federal inmate population. Put simply, the Market Study concludes that there are no easy answers and no sizable opportunities for FPI to meet its growth requirements through continued diversification into new products and services.

To address this dilemma, the Market Study suggests that FPI complement sales of traditional products and services to the Federal government through expansion of markets and through some changes in the way in which FPI interfaces with the Federal marketplace. The Market Study recommends three growth strategies:

1. That FPI subcontract with Federal prime contractors, under a mandatory set-aside arrangement, to perform labor-intensive, light manufacturing functions.

2. That FPI enter into partnerships with the private sector to attempt to repatriate certain segments of American industry by manufacturing product components and performing certain production functions that otherwise could only be accomplished by offshore labor.

3. That FPI substantially increase its provision of services to the Federal Government, through the enactment of a mandatory source procurement preferencee. The Federal Government's purchases of services are increasing, and this growth offers substantial opportunity for FPI to employ more inmates with little likelihood of any adverse impact on the private sector. We note that the law currently provides a mandatory preference for services to the National Industries for the Blind (NIB) and the National Industries for the Severely Handicapped (NISH). We do not believe that any preference for services in favor of FPI should take priority over the preference currently afforded to NIB and NISH. In fact, it is our recommendation that FPI be given a preference that is secondary to these organizations.

The Market Study recommends that by 1998, FPI should generate 50 percent of all sales through these three new strategies. This means about $100 million worth of sales in each strategy. While the report recommends that during the transition period, sales continue to be generated by traditional industries (textiles, apparel, electronics, furniture), at the same time it recommends that as new growth strategies succeed in employing inmates, FPI should reduce its sales of traditional products by about 60 percent from 1998 projections.

MARKET STUDY IMPLEMENTATION EFFORTS

Obviously, the study left many questions unanswered, and FPI, private industry, and labor have many valid concerns about the study's growth recommendations and implementation strategies. It was important to have a neutral forum where these issues could be discussed and resolved. We asked for guidance from and the involvement of The Brookings Institution Center on Public Policy Education for several reasons. Brookings is extremely experienced at bringing together leaders from different sectors of society for focused problem solving in the belief that these exchanges can help produce wiser public policy. In addition, Brookings is a neutral party that has the conflict resolution expertise necessary to confront these difficult issues.

The post-Market Study process can be divided into three main phases, with Brookings oversight, and private sector and Congressional involvement, at each phase.

First, an advisory committee composed of Congressional staff, Department of Justice officials, and trade and labor association representatives worked with Brookings to plan the best followup to the Market Study. A decision was made that a "summit" be held to involve all interested parties in discussions of the study findings, recommendations, and implementation strategies. over a six-month period, the advisory committee worked on the agenda as well as the participants list to ensure that no major issues were overlooked, and no stakeholders were excluded.

Phase two included the three-day Summit, which was held in early June 1992 and was based on the work of the advisory committee. The invitees list included over 100 representatives from many sectors of government, Congress, and the private sector. (Invitee and attendance lists attached.) The response was excellent; over 75 attended. The Summit was very successful in identifying communication problems, looking at the correctional needs of the Bureau of Prisons, and providing a forum for discussion of the Market Study. It focused on the specific problems facing the industries in which FPI operates, as well as the growth strategies recommended by Deloitte and Touche. In addition, communication links between the stakeholders were vastly improved, allowing them to reach a greater understanding of the difficult problems facing each.

The primary message from the Brookings Summit was that the participants "should keep the process going and keep the lines of communication open." There was a firm commitment to continue the process into a third phase: the establishment of work groups to followup on issues raised at the Summit.

Two major work groups were set up: the Communications work group is examining how FPI, industry and labor can communicate more effectively, how FPI can be more predictable, and how the guidelines process can be improved. The Growth Strategies work group is identifying growth options for FPI, and has divided into four subgroups to examine subcontracting, offshore initiatives, services, and additional strategies. These groups are responsible for analyzing FPI's ability to expand in these markets, the impact on potential stakeholders, and any statutory changes that may be required.

I am pleased with the progress that is being made through this process, and I hope the Summit participants feel the same way. I greatly appreciate their dedication, and that their interest in the effort has not diminished. I am extremely optimistic that with the talent and dedication of the participants, this effort will be a success.

SUMMARY

Balancing the interests of two very valid concerns—insuring the growth of Federal Prison Industries while minimizing its impact on the private sector—is a classic problem for governance. As a student of public administration and an administrator responsible for one of these interests, I am pleased that the dialogue has moved beyond adversarial restatement of positions to a point of candid communications among interested parties. As a result of the Brookings Summit and subsequent work group meetings, all are attempting to find solutions that can serve everyone's interests.

It is my belief that FPI is doing exactly what Congress intended it to do when it was established in 1934: employ and train inmates to prepare them for release, be diverse yet self-sufficient, and avoid undue impact on the private sector. This is not an easy task. Yet both staff and inmates dedicated to FPI's success deserve tremendous credit. I am sure the Subcommittee is as proud as I am of government employees who are not linked to traditional "appropriate and spend" methods of operations. Each and every day, FPI must insure total customer satisfaction to sell products and services and continue to meet its statutory responsibilities. FPI is truly a Federal government success story, and one of which I am proud to be a part.

BROOKINGS SUMMIT ON FEDERAL PRISON INDUSTRIES INVITEES/ATTENDEES

(* Asterisk indicates those who attended summit.)

*Kate Leonard, Leonard, Ralston, Stanton and Danks, 1000 Thomas Jefferson Street, Suite 609, Washington, DC 20007

Joseph Lane Kirkland, President, AFL-CIO, 815 16th Street, NW, Washington, D.C. 20006

Evelyn DuBrow, Vice President, International Ladies' Garment Workers' Union, 815 16th Street, NW, Washington, DC 20006

Segundo-Mercado Llorens, Director of Government Affairs, United Food and Commercial Workers Association, 1775 K Street, NW, Washington, DC 20006

Eivind Johansen, President, NISH, 2235 Cedar Lane, Vienna, VA 22180

*Executive Director (Susan Perry Represented BIFMA), BIFMA, 2335 Burton Street, SE, Grand Rapids, MI 49506

* Larry Allen, Executive Director, Coalition for Government Procurement, 1990 M Street, NW, Washington, DC 20036

David Ladensohn, Vice President, KLN Steel Products Company, 8614 Perrin Beitel Road, San Antonio, TX 78265

* Marcia Kinter, Director of Government Affairs, Screen Printing Association, International, 10015 Main Street, Fairfax, Va. 22031

Caroline Carver, Director, Government Relations, American Traffic and Safety Services Assn., 5440 Jefferson Davis Highway, Fredericksburg, VA 22401

Douglass Brackett, Executive Vice President, American Furniture Manufacturers Association, PO Box HP-7, High Point NC 27261

Chris Steinbert, Executive Vice President, American Subcontractors Association, 1004 Duke Street, Alexandria, VA. 22314

Joseph O'Neil, Chairman, Business Coalition for Fair Competition, American Council of Independent Laboratories, 1725 K Street, NW, Washington, DC 20006

Richard Lesher, President, US Chamber of Commerce, 1615 H Street NW, Washington, DC 20062

Government Consultants, Inc., 2300 M Street, NW, Washington, DC

John Spevacek, Director of Judication and Corrections Division, NIJ, 633 Indiana Avenue, NW, Washington, DC 20531

* Jerry Lawson, SBA, 409 Third Street, SW, Washington, DC 20416

Scott Dacy, Legislative Specialist, Office of Congressional Affairs, SBA, 1441 L Street, NW, Washington, DC 20416

John Sturdivant, President, AFGE, 80 F Street, NW, Washington, DC 20001

Roberto Rivera, Prison Fellowship Ministries, PO Box 17500, Washington, DC 20041

* Ben Cooper, Printing Industries of America, 1730 N. Lynn Street, Arlington Va. 22209

Larry Martin, Director, Government Relations, American Apparel Manufacturers Association, 2500 Wilson Blvd., Arlington, VA 22201

Chief Justice Warren Burger, United States Supreme Court, 1 First Street, NE, Washington, DC

* Tom Albrecht, NIJ, 633 Indiana Avenue, Washington, DC 20531

Dorothy Seder, Staff Member, United States Senate, S-146A Capitol Bldg., Washington, DC 20510

Ron Klain, Majority Chief Counsel, Attn: Ann Rung, 224 Dirksen Senate Office Bldg., Washington, DC 20510

Gary Slaiman, Majority Counsel, Senate Judiciary Committee on Anti-Trust, 308 Hart Senate Office Bldg., Washington, DC 20510

Thad Strom, Minority Chief Counsel, 148 Dirksen Senate Office Bldg., Washington, DC 20510

John Ball, Minority Staff Director, 428 Russell Senate Office Bldg., Washington, DC 20510

Alan Coffey, Minority Chief Counsel, 428 Russell Senate Office Bldg., Washington, DC 20515

Joe Gerard, Vice President of Government Affairs, AFMA, 918 16th Street, NW, Washington, DC 20006

* Pauline Abernathy, Legislative Assistant, Office of Carl Levin, United States Senate, Washington, DC 20510

* Richard Alley, Deputy Executive Director, BOSH, 1735 Jefferson Davis Highway, Arlington, VA 22202

* Barry Levenson, Manager of Government Sales, Westvaco, Envelope Division, PO Box 3300, Springfield MA 01101

* Andrew Linder, President, Power Connector, 400 Oser Avenue, Hauppage, NY 11788

* R.L. Matthews, Regional Director, Bureau of Prisons, 7950 Dublin Blvd., Dublin, CA 94568

* Robert Q. Millan, Director, Board of Directors, FPI, 500 Thornhill La., Middletown, OH 45042

* Gerald Miller, Manager, Deloitte and Touche, 1900 M Street, NW, Washington, DC 20036

*Will Moschella, Legislative Assistant Office of Frank Wolf, U.S. House of Representatives, Washington, DC 20515
*William Natter, Staff Member, Small Business Committee, U.S. House of Representatives, Washington, DC 20515
*Glen Pommerening, Deputy Assistant Director, FPI, Washington, DC 20534
*Donald Pruett, Vice President, American Furniture Company, PO Box 5071, Martinsville, VA 24115
*J. Michael Quinlan, Director, Bureau of Prisons, 320 First Street, NW, Washington, DC 20534
*Robert Ramsay, Ombudsman, FPI, 320 First Street, NW, Washington, DC 20534
*Barbara Ramsay, Marketing Manager, Thomasville Furniture, Inc, PO Box 339, Thomasville, NC 27361
*Hardy Rauch, Director of Standards and Accreditation, ACA, 8025 Laurel Lakes Court, Laurel, MD 20707
*Charles Rowe, Minority Counsel, Committee on Small Business, U.S. House of Representatives, Washington, DC 20515
*David Wolf, Attorney Advisor, Office of Legislative Affairs, Department of Justice, 10th Street and Constitution Ave., NW, Washington, DC 20530
*John Young, President, OLES Envelope Corp., 532 East 25th Street, Baltimore, MD 21218
*Tracey Schreft, Associate Director of Small Business, US Chamber of Commerce, 1615 H Street, NW, Washington, DC
*George Schultz, Program Manager, Office of the Secretary of Defense, The Pentagon, Washington, DC 20310
*Donald Schwartz, Chairman, Board of Directors, FPI, Protocol Group, Old Ridgebury Road, Ridgefield, CT 07810
*Richard P. Seiter, Assistant Director, Federal Prison Industries, 320 First Street, NW, Washington, DC 20534
*Char Sobwick, Executive Assistant, FPI, 320 First Street, NW, Washington, DC 20534
*Richard Templeton, National Director, Justice Fellowship, PO Box 17500, Washington, DC 20041
*James Wilson, Special Assistant to the Associate Attorney General, Department of Justice, Tenth and Constitution Ave., NW, Washington, DC 20530
*Russell Abolt, Executive Vice President, International Sleep Products Assoc., 333 Commerce Street, NW, Washington, DC 22314
*Virginia Baldeau, Director, Office of Application and Training, NIJ, 633 Indiana Ave., Washington, DC 20531
*Leigh Emick, Office of L.F. Payne, U.S. House of Representatives, 1118 Longworth House of Representatives, Washington, DC 20515
*Michael Gatling, Executive Assistant, ACA, 8025 Laurel Lakes Court, Laurel, MD 20707
Norman Carlson, Director, Bureau of Prisons (Retired), 11410—15th Street, North Stillwater, MN 55082
*Gerald M. Farkas, FPI Chief Operating Officer (Retired), 1981 Moreland Parkway, B-3, Annapolis, MD 21401
*Jim Gondles, Executive Director, American Correctional Association, 8025 Laurel Lakes Court, Laurel, MD 20707
*Bob Martineau, President, Correctional Industries Association, Vermont
*Warren Cikins, Senior Staff Member, The Brookings Institution, 1775 Massachusetts Ave., N.W., Washington, D.C. 20036
*Pete Velde (formerly: Administrator, Law Enforcement Assistance Administration, Al Smith and Company, Room 310, 905 16th Street, N.W., Washington, D.C. 20006
Jerris Leonard (formerly: Assistant Attorney General, Attorney at Law, Leonard & Ralston, 1050 Thomas Jefferson St., N.W., Sixth Floor, Washington, D.C. 20007
Alvin J. Bronstein, Executive Director, National Prison Project, American Civil Liberties Union, 1611 P Street, N.W., Washington, D.C. 20036
Mike Grotefend, President, Council of Prison Locals, American Federation of Government Employees, 80 F Street, N.W., Washington, D.C. 20001
J. Hayden Boyd, Director, Office of Consumer Goods, U.S. Department of Commerce, International Trade Administration, 14th Street & Constitution Ave., N.W., Washington, D.C. 20230
*Alan V. Burman, Administration, Office of Federal Procurement Policy, Office of Management and Budget, Old Executive Office Building, Room 350, Washington, D.C. 20503
*Craig Schneider, Director of Operations, Krueger International, 1330 Bellevue Street, Green Bay, WI 54308-8100
Jeffrey P. Goldstein, President, Commercial Drapery Contractors, Inc., 1981 Moreland Parkway, B-3, Annapolis, MD 21401
Leslie B. Simon, Director, Consumer Non-Durable Goods Division, U.S. Department of Commerce, 14th Street Constitution Ave., N.W., Washington, D.C. 20230
Scott Fosler, President, National Academy of Public Administration,

1120 G Street, N.W., Suite 540, Washington D.C. 20005

*Beverly Milkman, Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Room 1107, 1755 Jefferson Davis Highway, Arlington, VA 22202

*George Camp, Association of States Correctional Administrators, Spring Hill West, South Salem, NY 10590

*Ross O. Swimmer, President/CEO, Cherokee Nation Industries, Inc., Highway 51 West, P.O. Box 860, Stilwell, OK 74960

Horace J. Crouch, Director, Office of Small and Disadvantaged Business Utilization, Room 2A 340, The Pentagon, Washington, D.C. 20301-3061

Steve Polley, President, International Communications Industries, 3150 Spring Street, Fairfax, VA 22031

Jack Faris, President, National Federation of Independent Business, 600 Maryland Ave., S.W., Suite 700, Washington, D.C. 20024

Bill Pitchler, President, National Office Products Association, 301 N. Fairfax Street, Alexandria, VA 22314

G. William Teare, Jr., President, Printing Industries of America, 1730 N. Lynn Street, Arlington, VA 22209

Jerry Jasinowski, President, National Association of Manufacturers, 1331 Pennsylvania Ave., N.W., Suite 1500, Washington, D.C. 20004

Susan Hager, President, National Small Business United, 1155 15th Street, N.W., Seventh Floor, Washington, D.C. 20005

George J. Mertz, President, National Industries for the Blind, 524 Hamburg Turnpike, Wayne, NJ 07470,

G. Stewart Boswell, American Apparel Manufacturers Association, 2500 Wilson Blvd., Suite 301, Arlington, VA 22201

John Satagaj, President, Small Business Legislative Council, 1025 Vermont Ave., N.W., Suite 1201, Washington, D.C. 20006

Paul Uetzmann, Executive Vice President, Cookware Manufacturers Association, P.O. Box 271, Lake Geneva, WI 53147

Fawn Everson, President, Footwear Industries of America, 1420 K Street, N.W., Suite 600, Washington, D.C. 20005

*John Zalusky, Head of the Office of Economic and Industrial Relations, Economic Research Department, AFL/CIO, 815 16th Street, N.W., Fifth Floor, Washington, D.C. 20006

*Robert Barbera, Sr., President, Wire Pro, Inc., 23 Front Street, Salem, NJ 08079

*Cora Beebe, Branch Chief, Commerce and Justice Branch, Office of Management and Budget, 725 17th Street, N.W., Washington, D.C. 20503

*Maynard H. Benjamin, Executive Vice President, Envelope Manufacturers Association of America, 1600 Duke Street, Suite 440, Alexandria, VA 22314-3400

*Richard K. Boyd, Manager, Governmental Relations, Westvaco Corporation, 299 Park Avenue, 13th Floor, New York, NY 10171

*Caroline Carver, Director of Government Relations, American Traffic Safety Services Association, 5440 Jefferson Davis Highway, Fredericksburg, VA 25407

*J.J. Clark, Warden, Federal Bureau of Prisons, Federal Correctional Institution, 1101 John A. Denis Road, Memphis, TN 38134

*Ed Cook, Vice President, Sales and Marketing, CPSI, 1491 West 124th Ave., Westminster, CO 80234

*Manus Cooney, Counsel, Committee on the Judiciary, U.S. Senate, 148 Dirksen Senate Office Building, Washington, D.C. 20510

*James P. Copps, Director of Manufacturing, FPI, 320 First Street, N.W., Washington, D.C. 20534

*Peter Dame, Legislative Director, Office of Representative Fred Upton, U.S. House of Representatives, 1713 Longworth House Office Building, Washington, D.C. 20515

*Mark D'Arcangelo, FPI Board of Directors, 225 Silver Spring Road, Fairfield, CT 06430

*John J. Davin, Assistant Postmaster General, Procurement and Supply Department, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Room 4011, Washington, D.C. 20260-6200

*James L. DeProspero, Assistant Commissioner for Commodity Management, General Services Administration, Federal Supply Service, 1941 Jefferson Davis Highway, Room 710, Arlington, VA 22202

*Patrick F. Donaldson, Executive Director, Citizens Crime Commission, 221 N.W. Second Ave., Portland, Oregon 97209-3999

*Harry H. Flickenger, Assistant Attorney General for Administration, Department of Justice, Tenth & Constitution Ave., N.W., Room 1111, Washington, D.C. 20530

*John C. Foreman, Principal, Deloitte & Touche, 1900 M Street, N.W., Washington, D.C. 20036

- Hayden Gregory, Chief Counsel, Subcommittee on Intellectual Property and Judicial Administration, Committee on the Judiciary, U.S. House of Representatives, 207 Cannon House Office Building, Washington, D.C. 20515
- Alan Israel, Mayor, City of Milan, Office of the Mayor, 147 Wabash Street, Milan, MI 48160
- Jim Johnson, Administrative Assistant, Office of Representative L.F. Payne, U.S. House of Representatives, 1118 Longworth House Office Building, Washington, D.C. 20515
- Thomas R. Kane, Assistant Director, Information, Policy, and Public Affairs Division, Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534
- Ronald D. Keefer, Director of Administrative Services and Property Management, Department of Justice, 400 7th Street, S.W., Washington, D.C.
- Thomas P. Kerester, Chief Counsel for Advocacy, U.S. Small Business Administration, 409 Third Street, S.W., Washington, D.C. 20416
- George E. Killinger, Senior Deputy Assistant Director, FPI, 320 First Street, N.W., Washington, D.C. 20534
- Judy King, Director of Congressional and Regulatory Affairs, American Furniture Manufacturers Association, 918 16th Street, N.W., Suite 402, Washington, D.C. 20006
- Ira B. Kirschbaum, General Counsel, FPI, 320 First Street, N.W., Washington, D.C. 20534
- Brad Kyser, Budget Examiner, Commerce and Justice Branch, Office of Management and Budget, 725 17th Street, N.W., Washington, D.C. 20503
- Mark Stein, President, Midtown Office Products, P.O. Box 7760, Silver Spring, MD 20907
- Robert Neal, Deputy Associate Administrator—Office of Federal Procurement Policy, Office of Management and Budget, Old Executive Office Building, Washington, D.C. 20503
- Kevin Howard, Staff Assistant, Committee on the Judiciary, U.S. Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510
- Patricia Martin, Vice President, Membership Services, International Sleep Products Association, 333 Commerce Street, Alexandria, VA 22314
- Ed O'Connell, Assistant Counsel, Subcommittee on Intelectual Property and Judicial Administration, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C. 20515

Mr. HUGHES. You have alluded to the summit that was convened under the auspices of the Brookings Institution. I know Warren Cikins is with us today, and we are indebted to him and the Brookings Institution for their work in trying to sort out the potential solutions to the dilemma we are in. I wonder if you can describe, in a little more detail, what process presently exists to get input from the private sector?

Mr. SEITER. In relation to the Brookings summit, Mr. Chairman?

Mr. HUGHES. Or otherwise? What process exists?

Mr. SEITER. Well, there are several ways, Mr. Chairman. The summit does continue with the followup meetings, and they have been held rather frequently. The work groups continue to meet, and they are looking to find the opportunity for growth, yet minimize the impact on the private sector. In addition, there is a guideline process whereby, before FPI can expand into any additional areas, there must be a public involvement process. An announcement must be made of the intent to expand, the private sector must be notified of this intent, and asked to negotiate a market share. If that is not successful, then that must go to the Board of Directors. The presidentially appointed Board of Directors will hear testimony from any private sector interests and representatives of FPI and make a decision. As I noted, of 11 of those presented, 3 have been denied.

In addition, the Office of Ombudsman was formed to allow an avenue for those who may feel impacted, even though on the larger scale, the industry may not be impacted because the market share

may be small, but because of the individual efforts or targets for markets that small business or disadvantaged business may have, they may feel unduly impacted. This is a direct avenue to FPI and its Board of Directors to get that input known.

Mr. HUGHES. A few years ago, the Congress did mandate changes in FPI operations, so that no single industry would be unduly impacted by operations. Since that legislation was enacted, what operational changes have you implemented to ensure that the impact is spread among the various sectors of the economy?

Mr. SEITER. Again, Mr. Chairman, the industry involvement process evolved and guidelines have been very beneficial in that regard. I think they have increased the sensitivity, they have increased the communications, and they have increased the exchange of data. In that regard, FPI has attempted to add new products. That public involvement process has been implemented, and the Board of Directors has heard several testimonies about the potential impact on that. Those guidelines are being followed, and I think they have really made major changes in the way FPI looks at the expansion of products.

Mr. HUGHES. The furniture industry, as you know, contends that it bears the greatest burden of any industry in the private sector. What are the percentages of your sales that are in furniture? Is that your largest product area?

Mr. SEITER. Mr. Chairman, office furniture is our largest single market area. We produce 150 different products. However, the market study noted that the four major areas we target and hit hardest, in terms of trying to get government customers to buy, are furniture, textiles, apparel, and electronics. The market study noted, for fiscal year 1990, that the share of the Federal Government furniture market that FPI had was approximately 10 percent. That is not of the national furniture market, an $8 billion or so industry; but of the Federal Government market. I believe in 1989 it was 13-plus percent. In 1991 it dropped to 8.8 percent. So, we have actually seen a declining market share, while we have increased sales to the Federal Government, because Federal Government purchases of furniture have been increasing. So, it has gone from a low of 8.8 to a high of about 13 percent of the Federal Government market over the last 3 to 4 years.

Mr. HUGHES. In volume of sales, it has increased because of the increase in purchases?

Mr. SEITER. Yes, sir.

Mr. HUGHES. The Board of Directors is appointed by the President, and by statute are representatives of particular groups or Federal agencies. Have you had any input in the past on these appointments?

Ms. HAWK. We have, yes. Mr. Chairman, we are able to identify individuals and offer some input to the White House on who may be good candidates or who is interested in being on the Board of Directors.

Mr. HUGHES. How often does the Board meet, Mr. Seiter, in a typical year?

Mr. SEITER. They are required to meet approximately three times a year, Mr. Chairman. They met at least four times last year, and sometimes five and six times a year.

Mr. HUGHES. Has the Board evaluated the Deloitte & Touche market study, and adopted any of its recommendations, or rejected any of its recommendations?

Mr. SEITER. The Board had reviewed very thoroughly the market study, and feel that there is much potential in those recommendations. They have sanctioned and encouraged the process of the Brookings Institution involvement in discussions. They are also anxious to see, however, the results of those discussions, and hear the pros and cons from the interested stakeholders, from the private sector and the Government agencies, to see what then might be the best opportunities to meet the growth requirement, and minimize the impact on the private sector.

Mr. HUGHES. Have any of the recommendations—and I think you did somewhat criticize the study as, in many respects, not very helpful because it did not offer specific suggestions—but, were there any recommendations in the study that have been rejected by the Board?

Mr. SEITER. No, Mr. Chairman. The Board has really been very open to all of those. I think the Board has said that, if you took the 50 or so specific recommendations of the study, there may be some that they do not favor as greatly as others, but, overall, they feel that the best approach is to take the study as a package, and consider each of the recommendations versus the other ones, and attempt to meet a 25,000-plus inmate requirement for employment, and keeping productively busy, while minimizing that impact on the private sector.

Mr. HUGHES. One of the major criticisms of FPI by both labor and industry is that it is only able to offer competitive prices on its products because it does not pay minimum, or a prevailing, wage. We will hear some testimony later on from some of the witnesses that make that argument. What would be the impact on Federal Prison Industries of requiring a prevailing wage or a minimum wage?

Ms. HAWK. We have studied the impacts of the possibility of having to pay minimum wages. What we have found is, if we take the wages that we pay the inmates right now, and factor into consideration the room and board charge that inmates would pay for being in the institutions, and the other services that are provided, such as medical service, the increase to minimum wage would simply offset these costs.

Mr. HUGHES. Is that feasible?

Ms. HAWK. I think one of the factors is that the moneys that the inmates are paid right now come from the value of the sales that we make from FPI products. The other services are actually funded through appropriated funds. If we were to pay the inmates the minimum wage from FPI sales purely, then the sales would have to be increased that much more dramatically to be able to cover the costs of the services that are provided by the institution.

Mr. HUGHES. Have you done any studies that would indicate how much that would amount to?

Ms. HAWK. I do not know exactly what the figures are, no, sir. Do you know, Rick?

Mr. SEITER. I think, Mr. Chairman, we currently pay inmates approximately $26 million per year in wages. If prevailing or mini-

mum wages were required to be paid, it would be approximately $125 million. So, it would be an additional $100 million that would have to be built into the price of the product, or something else.

If I could, Mr. Chairman, note that the emphasis of Federal Prison Industries is as a correctional program. As a correctional program, we attempt to, as is statutorily required, No. 1, be diverse in product line, No. 2, be labor-intensive, No. 3, minimize the impact on the private sector, No. 4, employ and train inmates, and, No. 5, remain self-sufficient.

As we have looked at it, the dilemma that we always face is to change the total makeup of FPI, to try to pay minimum wages, or be competitive and operate more like a private business would undermine those essential elements of FPI as a correctional program. It would cause us to probably be less labor-intensive, and to automate more; not to employ as many inmates, but to try to employ fewer—maybe not employ the least-skilled, and those that need FPI employment the most, but employ those that are the best producers.

Mr. HUGHES. Well, isn't it true though, Mr. Seiter, that one of the things we are trying to do is to teach them skills that they can utilize on the outside? So, wouldn't it make more sense to automate, if that is what we have to do, so that we are teaching the skills on an automated system that will enable them to cope when they are released from custody? Doesn't that fly in the face really of what we are attempting to do? Frankly, if all we are doing is creating labor-intensive work, but that is not relevant to what is happening in the marketplace, are we really serving our interests? Are we providing them with the kinds of skills and jobs that they are going to be able to use when they are released?

Mr. SEITER. Again, it is a very difficult dilemma, to try to make sure that you are preparing inmates for the work force of the future, yet be as labor-intensive as possible, and give that opportunity to as many people as possible. We try to find that balance.

You have toured our institutions, sir, I know, and have seen some that are very much state of the art. As much as we can do in a labor-intensive way, yet still provide that training and job preparation, we do. We stress teaching the basic work skills, getting to work on time, learning to work for a supervisor, having pride in your product, getting along with peers, and developing the skills that we find, from discussions with employers, and looking at the inmate population, are most lacking in their preparation, not necessarily that they cannot handle a particular machine, because that still varies by industry to industry, and by shop to shop, or employer to employer. If they can get over that initial hump of being a good employee, the basic work skills, then employers are willing to make a commitment to train them.

Mr. HUGHES. Thank you.

The gentleman from California.

Mr. MOORHEAD. Thank you.

The figures you gave us—the sales by private manufacturers of furniture in the Federal market had gone up from 87 percent to 91.2 percent in 1 year. Obviously they had much larger sales than they did before in the private market, as opposed to what you have been selling out of prison industries—has that reduced the argu-

ments against prison industries, or has it remained about the same?

Mr. SEITER. I think, Mr. Moorhead, that there are still those concerns, and valid concerns by the private sector. We feel that we have tried to be very sensitive, and maintain a sensitivity to the impact on that industry by market share. We recognize that, as Deloitte & Touche said, if growth continues in that area, and if there is a decline in the Federal marketplace, then that could have a greater impact, even though Deloitte & Touche reported that there was not a significant impact on that industry at this time.

Mr. MOORHEAD. This subcommittee, a couple of years ago, did an informal survey of various Federal agencies that did business with UNICOR, and the number one complaint seemed to be that the delivery schedules were not always as good as they should have been. Has this situation improved since that time?

Mr. SEITER. Well, yes and no. Again, we face a dilemma of being diverse in product line, and producing 150 different products. We must try to do business in a certain way. In that way, once we get an order, then we buy raw materials and produce that product, because we cannot commit financial resources to a single product line, like a private sector business would do which produces only one product line as a middleperson, as a wholesaler, and a retailer, and several other people that will assist in selling the product. So, we do not stock furniture. What we have done is look at some of the most important trends, in terms of some of the common items, and try to stock a little bit of that.

The way we generally deal with that is to grant waivers, when we cannot meet delivery. Last year we received some 6,900 waivers, requests not to buy from us. The primary reason was that we could not meet those delivery dates. It is for a chair here, or a desk there, or something. We waived 98-plus percent of those to the private sector so that they can meet those delivery dates. FPI is not designed to be an overnight provider, because there is no retailer. We are the manufacturer and the deliverer.

Mr. MOORHEAD. Does that affect you on reorders somewhat?

Mr. SEITER. Yes, sir, it does. If we could concentrate on a single industry, we could probably do better, and do a better job of getting reorders. Again, it would have a greater impact on that.

Mr. MOORHEAD. There are a couple of suggestions that you have made that kind of intrigue me. One is the public service employment for low-security inmates. To what extent has that been tried? Is that just an idea that you have been thinking about?

Ms. HAWK. Congressman Moorhead, if I may? We have explored that tremendously, and have engaged in it in many of our institutions, especially our minimum security institutions. We have actually eliminated our Federal Prison Industries programs from just about every one of our minimum security institutions, because those inmates are able to actually go out into the community and work on community service projects.

We are exploring more and more avenues to be able to do that. Right now we are limited by legislation, in that we can only do community service projects that are at least partially funded by Federal dollars. So, to the extent that we have been able to get involved in those areas, we have. We are exploring more and more

ways of being able to do that, even with perhaps some of our higher security inmates; but absolutely for the minimum security inmates.

Mr. MOORHEAD. Well, if 27.6 percent of your prisoners are in the minimum security category, that is certainly a fertile area for you to get job support from.

Ms. HAWK. It certainly is. As I indicated, we have already eliminated Federal Prison Industries almost totally from minimum security institutions. The goal is to eliminate it totally from these facilities, because we do have other options with those inmates in terms of programming.

Mr. MOORHEAD. In the pay area then, do they earn minimum wages while they are there, and then pay their——

Ms. HAWK. No. They earn a very very small amount of money. I believe the range—it begins at 12 cents on the dollar, and does not reach the minimum level for Federal Prison Industries pay. They make very little money.

Mr. MOORHEAD. I see.

The other idea that you had was doing subcontract work, where the work that was being done was now being done overseas, so it would not affect jobs in the United States. How extensively have you looked into that? How much of that kind of work is now being done?

Mr. SEITER. Mr. Moorhead, there is a tremendous amount of that kind of work that has moved offshore, as you are well aware.

Mr. MOORHEAD. I know.

Mr. SEITER. I heard you speak at the last conference.

Mr. MOORHEAD. I mean, how much of it now have you been able to do, or have you gone into that at all?

Mr. SEITER. We have not. The reason is that it is one of the recommendations of the Deloitte & Touche study, but the recommendation was that we partner with private sector companies to offer them the opportunity for us to help produce that product when they have to look offshore now to get the kind of labor-intensive work that they need done; but those products would then be sold in the open market, and not the Federal Government. Since we only have the authority to sell in the Federal Government, we have not been able to go forward with that. It is an area that has been discussed in the Brookings summit and the following work groups.

Mr. MOORHEAD. That might be something that we can look into, if that is an area where there wouldn't be competition with our own workers here in this country, or our own companies.

The last thing I was wondering about. Right now you have about 15 percent of your total Federal prisoners that are in this program. Obviously, that is a relatively small percentage. You mentioned it will go up to 25, you say?

Ms. HAWK. Our goal is to increase our ceiling that we have agreed to, which is no more than 25 percent in the institutions that have Federal Prison Industries. Again, I had referenced that the minimum security institutions do not have Federal Prison Industries.

Mr. MOORHEAD. How do you make your selection? Obviously, some of them are handicapped, and cannot—probably cannot work

in something like that. How do you select the prisoners that are going to be in this work program?

Ms. HAWK. Greatly, it is a self-selection process. Obviously, those who are physically unable to do the work would be excluded. The inmates apply for jobs in Federal Prison Industries. They work their way up, through a waiting list, to eventually be hired by Federal Prison Industries. As long as they maintain good work skills, good habits, and continue to have good behavior throughout the institution, they retain their position in Federal Prison Industries.

Mr. MOORHEAD. As you expand into areas that would be less contentious, or competitive, it would seem to me that it might be well worthwhile to have programs among the prisoners that would instill some desire to improve themselves, and to make them better capable of going out into the world and making a living once they are released. It might well be worth the dollar spent on the psychological training that you might give them.

Ms. HAWK. Absolutely, Congressman Moorhead. I could not agree with you more. In fact, I came into the Bureau of Prisons as a psychologist, and functioned as one for 8 years before I moved into management. We do have, and have historically had, many programs that are aimed toward personal development, self development, developing good value systems and personal habits, and a positive approach to work and all of that.

One of the dilemmas facing us is with our overcrowding rates of 141 percent of capacity, it is a little harder to touch as many inmates with these kinds of programs. That is one of the tremendous benefits of Federal Prison Industries, because you are able to engage a far larger number of inmates in this very valuable program at a lesser staff resource commitment than we would have to make in personal development programs that are directed at basically the same kinds of ends.

Mr. MOORHEAD. I guess my last question would be this. I know you have some handicapped people that cannot do probably much of anything; but, what percent of the people in the Federal prisons are engaged in some kind of activity, whether it is prison maintenance, or prison industries, or whatever? What percentage do you have working an 8-hour day?

Ms. HAWK. One hundred percent, except for those, as you indicated who are physically restricted, and medically restricted, basically. Because even those who are handicapped, we find some activity for them to do which is constructive, which occupies their day, primarily from about 7:30 in the morning until about 5 in the afternoon. Every inmate has to be on a work program, or in some type of education or constructive program during that time period. Their time is relatively well-regimented in constructive activities. So, if you consider we are talking about keeping 72,000, or 74,000 inmates constructively engaged on a daily basis, for at least 8 hours of each day of a 5-day week, it is a tremendous investment in time and energies and moneys on the part of staff resources. Again, why Federal Prison Industries serves us so well is we are able to engage a large number of inmates in very clear work-oriented activity that is very, very productive.

Mr. MOORHEAD. It is primarily only the Prison Industries that really can train them for jobs that they might be able to work at later on.

Ms. HAWK. That is clearly the best training. We also have vocational training programs and apprenticeship programs, but those are generally of a relatively brief duration, perhaps 6 months, 1 year, 18 months. When you consider that the average sentence that an inmate serves in our institution is 9 years, the vocational training and apprenticeship programs only go so far.

Inmates also work in our general maintenance around the institution. The inmates do the plumbing work, the carpentry work, they cook the food in food service, they do the kinds of maintenance that are required around the institution. We try to, in each of those situations, teach them some basic skills that can not only serve them in the institution to do work, but also hopefully serve some of them in a constructive way upon release.

Mr. MOORHEAD. Thank you.

Mr. HUGHES. The gentleman from New York.

Mr. FISH. Thank you, Mr. Chairman, and I thank my colleague from Florida for yielding to me at this point.

Ms. Hawk, I was very encouraged with your testimony, in respect to PREP, the Post-Release Employment Project, reinforcing the fact that inmates that participate in FPI work programs are better adjusted while incarcerated, and have a better post-release performance. I repeat that because what I had to say earlier, and what I will continue to say is not critical of FPI's impact on the prisoner. We all applaud the focus there on, not only keeping them occupied, but hopefully to train them for—so that they will be productive citizens upon their release.

My focus has been with respect to the impact of FPI, as you know, on the private industries and on the private sector, and concern generally about the size that you have become here, and alternatives to what you are doing. FPI has grown into a $417 million business I think was the testimony, which makes it the size of a Fortune 500 company. So, I think we have to recognize that.

With respect to these people you were just discussing with the chairman, the 16 percent in FPI, and the 58,000 out of your population of 74,000 that are otherwise occupied, I think that that would be interesting for us to know what they are doing or accomplishing. You must be steering them toward the same goals, I presume, of being occupied, plus trained to effectuate the same ends. So, how do they differ?

Ms. HAWK. They differ in a number of ways. One is, as I was indicating, those that are involved in education and training programs. We now require that every inmate pursue their GED. We require that they be involved in a GED training program for at least 4 months, then, if they opt out after that point, there are some motivational incentives that we have to encourage them to stay. Those programs are generally of a relatively brief duration. Again, if you consider that our inmates do a 9-year sentence, educational and vocational training programs only go on for so long.

The work programs that we have available are in maintenance and work areas around the institution. The problem with those is that the real work that they are doing is relatively limited, because

the real work that they have to do is only that which is needed by the facility. So, they do some basic plumbing, some basic carpentry, food service, cleanup, orderly kinds of work. Each of those work details are so large right now, that even though they are engaged in that—they are assigned to perhaps the plumbing crew for 4 hours, or 8 hours a day—the amount of actual work that each individual inmate really gets to perform is quite small, because we have stretched the number of inmates on each of the work details so tremendously in order to give them an identified place to be. So, they are doing very little real work. They are engaged, they are supervised, they are occupied, but they are doing little real work; as compared to Federal Prison Industries, where they are doing very honest, real work, completing a real product, and actually contributing something very definitive, both to their own development, as well as to Federal Prison Industries, and to the communities.

Mr. FISH. Thank you very much.

Mr. Seiter, I would like to ask you a very basic question. Why should FPI continue to have a statutory, mandatory preference? Why shouldn't prison products have to compete with the private sector companies on the basis of quality and price, and delivery date, and all of the other factors?

Mr. SEITER. Mr. Fish, I would like to go back to the congressional mandate that we have to be self-sufficient, labor-intensive, diversified through a very varied product line, and to employ and train inmates. This creates a situation that is unlike one that any business would face, and reemphasizes the point that we are a correctional program, and not a business. If we were to compete, we must ensure that we have a level of employment to maintain peace and order in prisons. If we must compete for every piece of business, on the customer's part, it obviously would drive up their costs, to a certain extent, and the time it takes for them to procure their products. From our perspective, then, we would have to try to do everything possible to bring down the cost, to make sure that we were always the lowest possible provider of that good. That perhaps could happen; but probably, through the normal business approaches to automate, rather than be labor-intensive, of not providing so much training, but seek those people that have the skills already. That would probably undermine the focus of a correctional program.

So, to maintain the efforts of a correctional program, and the training that we are providing for inmates, and being diverse, and minimizing the impact on the private sector, we must assure a certain level of business, so that inmates will be working, busy, and productive.

Mr. FISH. You are not saying to us that you cannot compete in quality with the private sector, are you?

Mr. SEITER. No, sir. We are not saying that. We are required to meet current market price. We feel we do meet current market price. The market study has also looked at that, and reports that we do meet current market price, but that we can do that in a way that does not require the bidding and the chance that we will not get a level of work that will allow us to maintain those valid correctional programs.

Mr. FISH. What do you think about an amendment to FPI, and the statute that would allow you to provide services, not products, but services to the private sector?

Mr. SEITER. To the private sector, Mr. Fish? Outside of the Federal Government agencies?

Mr. FISH. Yes.

Mr. SEITER. That would be——

Mr. FISH. Services, not product.

Mr. SEITER. Yes, sir. We currently offer products and services to the Federal Government. We have a mandatory source for those products, but not for the services. The market study did report that there is a tremendous opportunity to increase services to the Government because the service markets are going up, both within and outside of the Federal Government, and that most of those are very labor-intensive. It will be an expanded market.

The Deloitte & Touche study recommended, even within the Federal Government, that FPI have a mandatory source for their services, in addition to some of those that are already established by statute, and, therefore, be able to expand those to the level that we could employ the numbers of inmates that are going to be necessary to employ in the next decade.

Mr. FISH. Well, my time is almost up. I would like just to make one more suggestion. Several have been made here by members, and by the panel on new activities for FPI. One that strikes me would be basic recycling services. Here we have something new, so that you are not getting into competition with the established industry. I am talking about the very basic services—the separation, the preparing the material for recycling, which seem to be labor-intensive, and will not impact significantly on the private sector. I would recommend that idea to you.

I thank you very much.

Mr. HUGHES. I thank the gentleman. The gentleman from Florida.

Mr. MCCOLLUM. Thank you, Mr. Chairman.

Mr. Seiter, what is the method of pricing that you use? How do you determine the price?

Mr. SEITER. Mr. McCollum, basically, in three ways. First of all, we must, by statute, meet current market price. Those three ways are, number one, if it is what we call a catalog item, a standard item that we produce, it is not a custom item that is requested by the customer, we will go out and do market surveys, and we will look at what comparable market price is provided by the private sector to the Federal Government for a like product. And it sometimes is very difficult to compare apples and oranges, because people buy with different—like a car, with a lot of different options. We make sure we are within that current market price, based on market analyses.

Second, the military and the Postal Service will often split the requirements. They will say we want to buy it from three vendors, to assure that we have a certain amount, and that we have the capabilities and such. In our case, after they have gone out and bid to the private sector, and seen what the market will bear, they will come back to us and say you can have a portion of this, if you can

do it for this price, and it is a yes or no. We either do it, or if we cannot do it for that price, we cannot take the business.

The third is where there are no like items produced in the Government. Some of our cable assemblies are that way. A customer will come to us and say we have never bought this as a replacement cable. It came new on the airplane or tank or whatever. Can you make this for us? What would the cost be? Then we operate very much like a private sector company, in the sense of share with them that these are our material costs, these are the hours of labor it would take, the overhead—provide all of that to them. They will do a market analysis, based on some similar kind of buys that they have made, and ensure it meets current market price, and accept that price or reject it.

Mr. MCCOLLUM. Did the study that was just done, or is the study group, the Brookings, looking into, or did they look into a pricing mechanism, comparable to what you do now? Because it sounds to me like it has some features that would adapt, but not by any means all, or separate and apart, to be able to price goods that might be sold into the private market, should the restraints that we now have in the statute be modified or, in some way lifted? Was that part of the study? Is that part of the ongoing discussion?

Mr. SEITER. At this point in time, Mr. McCollum, it has not been. The study did recommend that we move in that direction, but it stopped short of saying how the pricing issue would be resolved. Actually, it would have to be done in a way that any other provider would contract with their vendors, and to look at "can you meet the price, quality, and delivery that I require." If so, you can get the business, if not——

Mr. MCCOLLUM. Mr. Seiter, several years ago, when I sat on Chief Justice Burger's Commission on Prison Industries, and sometime back with Warren Ciken's assistance. I pursued this issue with the former chairman of this subcommittee, Mr. Kastenmeier. At that time State prisons had a greater problem than you did because your growth is current, and your pressures are relatively new in this regard. I pursued quite vigorously the question of how could we find a way to be able to sell prison-made goods on the open market across State lines, and not run afoul of the problems and criticisms of the private industry groups that are out there of unfair competition?

The conclusions we reached, at that time, were not too dissimilar from what you just testified to Mr. Hughes and Mr. Fish about, the prevailing wage problems. This simply is not practical in the prison setting. At that time, we were looking to try to encourage private industry to come into prisons more. They, I guess, have had limited success in getting that done.

We even made a run at doing this, having gotten organized labor to support it; but the small business people, again, opposed it, because there was no pricing guarantee mechanism out there. I have yet to see anybody do a study that would give us a mechanism. It would seem to me that there should be some way to come up with a standard from the Department of Commerce, for each product that you start to produce, if you have not already been producing it. There could be some nationwide or regional average mean price determinant over a period of the last 6 months or something like

that. There might be a method that would be acceptable to private industry that you could then be able to market goods into the private world, and alleviate a lot of these pressures you are getting that seem to me to be mainly because you have still a limited market, and because of the mandatory preference that private industry is complaining about.

Does any of that sound feasible to you, that some study like that could produce a market determinant that would be more satisfactory than what currently exists?

Mr. SEITER. Yes, sir. I think that is a very valid approach. We will carry it back to the Brookings group and ask if we can jointly pursue that.

Mr. MCCOLLUM. That would just be my contribution to it—my thought that that could help. Because some of us, I do not know how many now, but quite a few of us, at one time, really truly wanted to modify that statutory prohibition. However, we recognized that it cannot be done if there is an appearance, in fact or not, that the goods that you would be marketing would be underpriced because you have prison labor, and because of all of the factors that keep you from being able to pay the prevailing wage.

Well, I do not have other questions, because I think that is, to me, the heart of the matter, Mr. Chairman. I yield back.

Mr. HUGHES. I thank the gentleman.

The gentleman from North Carolina.

Mr. COBLE. Thank you, Mr. Chairman.

Ms. Hawk, Mr. Seiter, it is good to have you all with us. Even though the tenor of my earlier remarks may have sounded adversarial, I am not here to bash FPI. It is not my desire to put FPI out of business. I am, as the chairman alluded earlier, the watchdog for the furniture and textile people.

Oftentimes on this Hill, and I do not mean this to be critical of my colleagues, there seems to be a very cavalier attitude about the business community. Oh, the business community can adjust to this. They can accommodate. Well, oftentimes they cannot. Oftentimes they are hard-pressed to accommodate to new laws and new regulations that are imposed on this Hill. That is the direction from which I come.

I visited the facility at Butner, Mr. Seiter, a few years ago, and was very favorably impressed with the operation. I think you all produce a very good product. I want to ask a couple of questions, perhaps three.

One mission of FPI is to rehabilitate prisoners so that they will become contributing members of society once released. To what extent do you all have documentation that this is being done? That is to say, when a prisoner is released from X penal institution, is he or she able to go out into the private sector and obtain employment in a related industry for which they have been trained, specifically with FPI?

Ms. HAWK. I think, Congressman Coble, if you will refer to the PREP study that we mentioned earlier—and a summary of that is attached to my formal testimony that was submitted for the record—we do have documentation that shows, clearly, that the inmates who have been involved in Federal Prison Industries are bet-

ter able to maintain employment and maintain employment over time. Now, that does not mean necessarily that they are working in the exact trade area that they worked in while within Federal Prison Industries.

As was stated earlier, you know, the ideal would be to train the inmate in the exact trade area that they will be working in the community, and that they would be trained on state of the art equipment. For the various reasons that we mentioned earlier, state of the art equipment means that we are not labor-intensive, which is one of the requirements that we have in our shops. Also, we cannot always guarantee that the factory that we have in a given institution is going to be also in that inmate's release community. What we have found is that, regardless of what type of factory they are working in within Federal Prison Industries, there is a direct correlation confirmed by the PREP study, that shows that by having learned skills, by having learned good work habits, by realizing that they can be taught a trade, that they can then go out into the community and learn a new trade. There is a direct correlation between their involvement in prison industries, and being gainfully employed upon release, even though it may not be in the exact same skill area.

Mr. COBLE. The independent market study, to which many references have been made this morning proposed, among other matters, that the industries should not be expanded, and that FPI should limit its market shares to current levels. I think this proposal probably tracks with what I suggested earlier, in trying to remove the tilt of this uneven playing field. Is this in fact being done? Are you all holding the line at the same numbers, and the same production, or has expansion occurred?

Mr. SEITER. Mr. Coble, the market study did make that recommendation, but linked it directly with successful implementation of the other three recommendations that we noted. We recognize that that is a very valid approach of saying—in fact, they specifically recommended, by 1998, that 50 percent of our inmate employment be in the three new growth areas, and, instead of 85 percent currently being in the traditional areas of textiles, furniture, and electronics, that we concentrate in these new areas. The study recognized that until there are statutory changes, if necessary, to implement these recommendations, that we would not be successful at doing that at a level that would allow us to just maintain.

So, they showed in the study that they expected us to continue to grow in these traditional areas until these were implemented and, at that time, reduce to those traditional levels.

Mr. COBLE. Finally, Mr. Chairman, one more question, if I may.

It is my understanding that when Federal purchasers are to buy goods, and you all manufacture those goods, they must purchase from you all. I am furthermore advised, or it is my understanding, that there is a process whereby waivers can be extended. If—well, let's say HUD, for example—if HUD needs furniture, and they need it tomorrow—and I am being very graphic now—you all cannot get it to them tomorrow, or next week, there is a waiver process. Now, I do not expect you to have the answer to this question, Mr. Chairman, but I would like for us to get an answer. I am told that it is virtually impossible to get a waiver issued. Of course, this would

go back to the Justice Department. A, could you all illuminate on that matter for me? If not, B, I would like for somebody to let me know whether or not that is a valid charge?

Ms. HAWK. Congressman Coble, there very clearly is a waiver process. We must waive any order that we cannot meet in terms of cost, timely delivery, and quality. Last year, in 1992, we received almost 7,000 requests for waiver in the—was that in the furniture industry alone, or was that in general?

Mr. SEITER. That was in total.

Ms. HAWK. We granted 98 percent of those waivers. The remaining ones that we did not grant were because we were able to show the orderer that we were able to meet their requirements in each of those three categories.

Mr. COBLE. That is an impressive figure, Ms. Hawk. Now, do you know whether or not those waivers were granted in a timely, prompt way? Maybe that was the complaint that I had.

Mr. SEITER. Mr. Coble, about a year and a half ago, and partly as a result of this study and conversations with the private sector, and government customers, and hearing some of the same things you did, we put in place a waiver processing procedure that requires us to turn those around within 5 days. I think most of the time we do meet that. If they submit to us the information as requested, and we give all our customers these waiver processes, then we can do that.

I would like to add also, because I know you are so interested in furniture that, in 1992, we waived $193 million in furniture orders to the private sector.

Mr. COBLE. On that favorable note—thank you, folks. Thank you, Mr. Chairman.

Mr. HUGHES. The gentleman from New Mexico.

Mr. SCHIFF. I apologize for being late, but I had another—as often happens around here, I had another committee meeting at the same time.

I have one central question I would like to ask the witnesses. In your judgment, is the primary purpose of prison industries to bring money into the system? I assume the money stays in the system. First of all, is that correct? The money from the sale of merchandise to the Federal Government goes where?

Ms. HAWK. The money is used to fund Federal Prison Industries—to pay the staff and inmate salaries that are working in Federal Prison Industries. If there is money leftover from that, we are able to return that to the Treasury. In the history of Federal Prison Industries, we have returned roughly $80 million. That has not been in recent history, because we have had so much growth occurring that we have utilized all of the funds within the Federal Prison System.

Mr. SCHIFF. I appreciate that.

The central question is whether the primary purpose of prison industries is to raise money for the Government, or is the primary purpose of prison industries to be a rehabilitative program for the inmates at Federal penitentiaries?

Ms. HAWK. It is very clearly the latter, sir. Federal Prison Industries is clearly one of our primary programs within the Federal Bu-

reau of Prisons to help inmates better return to the communities with a workable skill, or skill habits and work habits.

Mr. SCHIFF. Well, here is why I raise the question. You obviously know the inherent conflicts that come up that I have known about in various prison industries back in my home State that we are receiving testimony about today. I have never seen the statistics to which you have alluded, Ms. Hawk, about there is proof that participation in Federal Prison Industries leads to less recidivism. I would personally be grateful, not now, of course, but, at your convenience, to receive that information.

I might tell you what I would be looking for. I would be looking for not a general comparison, well, this number of individuals in Prison Industries, versus this number in the entire prison population; but this number in Prison Industries, compared with comparable prisoners in the Federal system, similar criminal histories, in terms of prior offenses, similar offenses, current offenses that bring them into the system, to see if, under that comparison, one can demonstrate a distinction, again, at your convenience.

Ms. HAWK. That is exactly the nature of the PREP study that I referenced earlier. It is summarized in my testimony. We will ensure that you get a complete copy of the study with all of the details, because we did, in fact, compare those working in Federal Prison Industries against a control group that matched them, as closely as possible, in characteristics of offense, past work habits, all of that, and tracked both of the groups into the community.

Mr. SCHIFF. I would appreciate it. Again, I apologize for being late, and may have missed that in your testimony. If it is in the materials, then that is perfectly satisfactory.

Thank you very much. I yield back the balance of my time.

Mr. HUGHES. I just have a couple more questions.

You have touched on the importance of keeping inmates busy. You work overtime at trying to keep them busy. The maintenance programs are primarily an effort to keep them very busy. They perform little work, as you have described. What, in your judgment, would be the situation if we did not keep them busy through programs like Federal Prison Industries, which is apart from the question of rehabilitation?

Ms. HAWK. That is an excellent question, Mr. Chairman. Having served as both an associate warden, and a warden at one of our Federal institutions, it is very clear that idleness breeds very serious possible consequences, in terms of misconduct, in terms of unrest, which can lead to riots and destruction of the facilities. So, it is absolutely critical that, if we do not maintain some types of programs to keep the inmates constructively occupied, relieving idleness, the consequences would be much more costly. By looking at what has happened in other systems, as well as in our own system, it would be extremely costly to the taxpayer, in terms of potential damage to human life, as well as the facilities, if the unrest is left unbridled, and idleness is able to become rampant.

Mr. HUGHES. Well, you know, I read the testimony 2 nights ago, from your testimony, and the testimony of panelists. There is something that stuck me about it. It struck me that it pretty much paralleled what I hear every day of every week in Washington, and that is that we want to help, and we think it is important, but we

do not want basically for it to have any impact on our sector. I hear that from every group that comes into Washington to see me. We want to reduce the deficit, but you cannot touch this.

I have no doubt that it would almost be impossible to develop a system that would not have some impact. Now, I think that my colleague from Florida's suggestion is a good one, but I have no illusions about the fact that, even if we were able to determine what market value is, in pricing your goods or services, we would have an impact, and we would have the same backlash we see with the system we have.

Now, I am not suggesting that we cannot do a better job of trying to diversify, because we need to. I think some industries have borne a disproportionate burden perhaps over the years. I think there are some legitimate criticisms that have been directed at Federal Prison Industries policies which are set by Congress. We have mandated basically that you task this in a particular fashion. It may very well be that we need to review some of those policies.

I am going to be asking some of the witnesses who are going to be coming to see us in just a few minutes what if we went to minimum wage? Would we still have arguments? Would that satisfy the concerns about the slave labor arguments that we hear, if, in fact, we target industries like the consumer electronic industries, which we have a very little market in this country? Would that satisfy that sector? I doubt it. We will find out.

The bottom line is we cannot have it all ways. I think everybody here on this committee, I would assume, agrees that it would be ludicrous for us basically to eliminate some form of prison industry. Everybody I think would agree that we need to keep inmates busy. I think we realize that we need to rehabilitate. I mean, our policies have been bankrupt in that regard. We need to teach skills. We want to make sure that, in fact, as the prison population increases, that we reduce idleness, because you do not have to be a rocket scientist to understand what happens when you do not keep inmates busy in an overcrowded facility.

I think that the hearings and the Brookings process have been very helpful, and we need to keep looking for ways that we can reduce impacts in various sectors. I think that is what I hear you saying. I think that that is very, very healthy. We need to find ways to try to reduce the impact in the private sector, and yet, at the same time, deal with the problems that exist in the prisons today.

I saw some numbers this past week that are staggering. I mean, you mentioned 130,000 inmates that we are going to have by the end of the century. If some of the cockamamie amendments that are being offered in the Congress are accepted by the Congress, and we federalize everything, and we keep imposing mandatory minimums so that we keep them in prison for 10 years for first offenses, then we are probably going to have, by the year 2050, more inmates than we are going to have people on the outside.

So, I guess we better be prepared for that, and prepared to pay for it. There is a very simple solution, I would think, and that is we can eliminate Federal Prison Industries, and just come up with $100 million or $200 million that is needed to provide the skills.

We can do that, but I doubt if many of my colleagues would want to vote for that.

So, I think that the process we have underway is a very healthy one. Let's continue to talk and see if we cannot find better solutions, at the same time, minimize impacts. I think that is what most responsible people would want to do.

Thank you very much. We appreciate your testimony today. That is a vote. So, why don't we do this. Why don't we recess until—it is going to take us 20 minutes—let's recess until 12:15, if we could? We will resume at 12:15.

[Recess.]

Mr. HUGHES. The subcommittee will come to order.

I might say, for your information, that we are going to have apparently a series of votes within the hour. Frankly, rather than attempt to basically come back, which will be later this afternoon, I may ask you to, please, summarize. We will try to get to all the witnesses today. What we cannot get to—we may have to reschedule another date. I do not want to basically cut off anybody; but I also do not want you sitting around here the balance of the day while we linger around on the floor with a series of votes and maneuvers.

So, we will get through as much as we can. We will try to do it all. If you will summarize, that will enable us to get to the questions. I have read all of the statements, as I have indicated earlier.

Let's bring up the next panel. The panel consists of Marcia Kinter with the Screen Printing Association, International; Maynard Benjamin, with the Envelope Manufacturers Association; and Susan Perry, with the Business and Institutional Furniture Manufacturers Association.

Marcia Kinter is the director of government affairs with the Screen Printing Association, and has held that post for about 4 years.

Maynard Benjamin is the executive vice president of the Envelope Manufacturers Association, and has been with the association since 1984. Mr. Benjamin served as a staff member with the Executive Office of the President, Council of Economic Advisers, and worked with the U.S. Trade Representative.

Susan Perry is the director of government affairs for the Business and Institutional Manufacturer's Association, and has been with that association since about 1988.

We welcome you today. We have your statements which, as I indicated, will be made a part of the record in full, and I would ask you to summarize.

Why don't we begin with you, first, Ms. Kinter? Welcome.

STATEMENT OF MARCIA Y. KINTER, DIRECTOR, GOVERNMENT AFFAIRS, SCREEN PRINTING ASSOCIATION INTERNATIONAL

Ms. KINTER. Thank you. Good afternoon. My name is Marcia Kinter. I am the director of government affairs for the Screen Printing Association International, or SPAI. We are the national trade association for the screen printing industry and associated supplier base. As such, we recognize the importance of the role Federal Prison Industries plays within our prison system, however, we cannot agree to support program changes that will unduly im-

pact the private sector. We do believe that, with proper planning and management, both FPI and private business can operate in today's Federal procurement marketplace.

I will say that I believe that the relationship between industry and FPI has moved away from one of total opposition with an adversarial approach, to one of reluctant acceptance. Everyone must exist within the same marketplace.

SPAI has long been involved with the issue of Federal Prison Industries. We have participated as part of the original industry group that helped develop industry guidelines and participated in the Brookings Institution Summit on FPI. We continue to participate in the summit work group. The independent market study, completed by Deloitte & Touche, remains the key document in all of our discussions, however, we feel it should be viewed as the framework for our discussions, and not as the definitive document. We just simply cannot support all recommendations contained in the market study.

Specifically, we do oppose any extension of the mandatory preference. Before we can consider the possibility of extending mandatory preference, either in the area of services or subcontracting, more specific factual documentation must be provided, outlining FPI's requirements.

Due to the ongoing work of the summit work group, we do feel it is premature to recommend specific growth strategies at this time. We feel though that we can offer recommendations that will make growth strategies easier to implement. Many of the market studies' recommendations dealt with administrative changes. We can support activities that would increase the amount of information available to both the Federal procurement officer and the general public. Specifically, we support the expansion of FPI's schedule of products to include more specific information on each product's design, testing, and performance specifications, and more information on specific products produced by FPI.

We also support activities to reform the waiver process through the improvement of reporting and handling procedures. Along this line, in line with what the Deloitte & Touche study recommended, we support the creation of a separate arbitration panel for dispute resolution. Creation of such a panel has long been supported by industry participants.

Thank you. I would be happy to answer any questions you might have.

Mr. HUGHES. All right. Thank you, Ms. Kinter.

[The prepared statement of Ms. Kinter follows:]

PREPARED STATEMENT OF MARCIA Y. KINTER, DIRECTOR, GOVERNMENT AFFAIRS, SCREEN PRINTING ASSOCIATION INTERNATIONAL

Good morning. My name is Marcia Kinter and I am the director of government affairs for the Screen Printing Association International, or SPAI. Thank you for the opportunity to appear today and present our comments on the activities of Federal Prison Industries. I would like to start by saying that SPAI is not opposed to the operation of Federal Prison Industries. FPI serves as a viable means to combat prison idleness in our increasingly crowded prison system. However, we are concerned about the expansion and development of prison factories. Any new or expanded activity needs to be carefully weighed against its impact on the private sector. While we agree that FPI serves an important function, we cannot agree to support programs that would unduly impact private industry. So, the question that continues

to face us, is can both exist in a shrinking Federal procurement marketplace? We believe the answer is yes, that with proper planning and management both FPI and private business can operate in the Federal procurement marketplace .

SPAI has been involved with Federal Prison Industries since 1989. We were one of the original trade groups working with FPI in the development of the original industry guideline procedures that govern FPI's entrance into new product areas and any significant expansions. We participated in the Brookings Summit on Federal Prison Industries in June 1992, and continue to work with the work group that was established as a result of the summit.

The document that serves for current discussions is the independent market study completed in 1991 by Deloitte and Touche. Whether or not we agree with the market study, the document took an objective look at FPI and documented, many for the first time, all arguments and discussions for and against FPI. As long as we recognize that the market study's recommendations are general in nature, then we can begin to discuss and develop specific implementation activities.

As a study, we feel it represents a good first step. The market study provided a focal point for discussions, the Summit opened discussion on the possibilities of implementation, and the work group is continuing these discussions and developing recommendations. It is important to note that the market study does not contain all the information necessary to make final decisions and recommendations concerning the activities of Federal Prison Industries. The market study has established a foundation from which to begin.

I feel it is appropriate at this point to discuss what I feel was the most important outcome of the Brookings Summit—the establishment of formal lines of communication between all participants in this undertaking. Many of us have been working on this issue for a long time, and it is fair to say that relations between industry and FPI have not always been cordial. The most important fact reiterated during the summit was the need to establish solid lines of communication. The establishment of the Summit Work Group has facilitated the development of more effective communication. We still do not always agree on all issues, we still debate issues, but we are now doing it in an open forum.

I mention this because I think it is important to note the change that has occurred in the relations between industry and Federal Prison Industries. We may not be ardent supporters of FPI, but we have come to an agreement that FPI does serve a useful purpose and there will always remain a need for prison factories within our prison system. While we may still disagree with the amount or type of work that FPI might do, our number one priority continues to focus on minimizing the impact on the small business community that is in direct competition with Federal Prison Industries.

The market study did find that FPI's major product classes have a higher concentration in small business. The screen printing industry is composed primarily of small businesses. The average size of a screen printing facility is fifteen employees, both production and management, with average annual gross sales of $500,000 or less. FPI does operate several screen printing facilities, and they are in direct competition with our membership. According to the latest information we received, FPI had ten percent of the Federal market place for all types of signage. This would include safety signs, such as stop signs, and all types of architectural signage. It is difficult to determine the actual impact on the small business community, because these procurement actions are generally under $25,000, and procurements under $25,000 are not reported.

SPAI did a survey in 1991 on government procurement activities within our membership. Companies responding to our survey reported their sales to the Federal Government had decreased anywhere from 2% to 30%. The majority of these operations were not able to say why their government workload had decreased. They simply were not getting the calls from their local procurement officers as they had in the past. So, when you ask for specific information on the impacts of FPI on a particular industry sector, you must keep in mind the information available.

Our recommendations to you today are from the perspective of the small business community, specifically the screen printing industry. We base our recommendations on the independent market study, but again we stress that this study should only be used as a framework. We are not opposed to the proposed strategy, i.e., reduction in sales in the traditional industries by offsetting in other areas. We remain opposed to the implementation of broad generic recommendations without looking at the specifics involved.

First, we continue to oppose the extension of FPI's mandatory preference into the area of services, specifically the printing industry. This recommendation has been put on the table by FPI, however, we continue to oppose it for several reasons.

The recommendation to expand the mandatory preference to services, specifically printing, is too broad. In our opinion, it would only perpetuate problems that currently exist within the traditional industries today.

As an illustration, I would like to take a look at the printing industry. One would assume that this industry would be relatively easy to define for mandatory preference. However, which part of the printing industry is FPI considering? There are currently five different types of printing, all with different equipment requirements and different markets. Is FPI considering expansion into offset lithography? Further expansion into screen printing? Letterpress? Rotogravure or flexographic printing? Then within each of these different printing categories there are numerous applications.

For example, the screen printing process is used to print not only signage, but membrane switches, containers of all types, banners, fleet markings, decals, labels, all types of textiles and paper products. Private screen printing operations do not attempt to print all product types, they generally specialize in one or two product specialities.

A mandatory preference for printing activities is too broad. FPI has failed to show us that a mandatory preference is truly needed. Figures on the types of facilities planned, the types of work to be accomplished, and the amount of work necessary to employ inmates needs to be presented. FPI needs to justify their request with specific product information. Only when all required information has been supplied, can a decision be made to support or oppose a request for mandatory preference.

We will not accept a blanket mandatory preference, even with a cap on percentage of market share. If one were adopted, it is our opinion that in five years we will be back before you arguing against continuance of a mandatory preference in services. We need to take the time now to fully explore the issue, and develop good recommendations that will move FPI into the future with minimal impact on the small business community.

With that said, we are taking steps to investigate other service related market areas for FPI. Recently, representatives from the Joint Committee on Printing, industry, including a representative from SPAI, labor and the Government Printing Office toured the Petersburg Correctional Facility to determine their capacity, and to mesh the needs of the Government Printing Office with FPI. There may be opportunities where the private sector is not providing for much needed printing services, thus offering possible market areas for FPI that would not unduly impact the private sector.

The market study also recommends that FPI become more involved in subcontracting opportunities, and that a preference be given in this area as well. We do not support the market study's recommendation proposing a requirement that prime contractors use FPI as their subcontractor. In our view, this would only extend FPI's mandatory preference to the subcontracting level. In order for this to work as currently proposed by the market study, FPI would have to relinquish its mandatory preference as a prime contractor. It is not fair to business for FPI to enjoy a mandatory preference as both a prime contractor and a subcontractor.

The work group is currently discussing this issue. As with the issue of mandatory preference for services, more information is needed before we can proceed much further. For example, we have requested that FPI provide us with information on current subcontracting activities, whether or not FPI is using small and small disadvantaged businesses as subcontractors, and which manufacturing areas FPI would like to pursue as a subcontractor.

We do understand the problem FPI has with subcontracting. And the question remains, can a system be put in place whereby prime contractors will receive some type of credit for using Federal Prison Industries. This is an extremely sensitive subject, especially for the small business community. Many of SPAI's members are subcontractors rather than prime contractors. In my opinion, it is too early to recommend a specific direction for this issue.

While we cannot support any specific growth strategies, we can offer the following recommendations that will make growth strategies easier to implement, and continue to improve communications between all parties concerned.

Many of the market study's recommendations dealt with administrative changes. We can support activities that would increase the amount of information available to both the Federal procurement officer and the general public. A lack of good solid information has often been cited by industry participants.

The market study recommends that FPI expand its schedule of products to include more detailed information on the product itself, such as required design, testing and product specifications, and expanded to include references to the specific products offered for sale. Confusion still reigns over what products FPI can actually produce. This confusion was found to exist for both Federal procurement officers and

the private sector. Such a document would fill the void and provide exact and accurate information to all involved with the products produced by FPI.

Second, we support activities to reform the waiver process through the improvement of reporting and handling procedures. We also support the creation of a separate arbitration panel for dispute resolution. Creation of such a panel has long been supported by industry participants.

We also recommend that initiatives be discussed that would help FPI improve its delivery problems. It has been suggested that changes be considered to the Federal procurement regulations to allow FPI more flexibility in procurement of raw materials. The changes considered would have to be specific to this issue, and not a blanket exemption from all Federal procurement regulations.

While I do feel that it is premature to offer specific recommendations on growth strategies, I do believe that the Summit Work Group is making strides toward the development of an effective package of growth strategies. To offer recommendations now would be to jump the gun on the work group. I do believe that administrative changes that can be implemented without legislation should be put in place without delay.

Thank you Mr. Chairman for the opportunity to appear before you today, and I would be happy to answer any questions you might have.

Mr. HUGHES. Mr. Benjamin. Welcome.

STATEMENT OF MAYNARD H. BENJAMIN, EXECUTIVE VICE PRESIDENT, THE ENVELOPE MANUFACTURERS ASSOCIATION OF AMERICA

Mr. BENJAMIN. Thank you. Good afternoon, Mr. Chairman.

Mr. Chairman, there are only 205 envelope converters in the United States. They produce approximately $2.5 billion in shipments value in 1992, of which about 70 percent, or $1.7 billion were sales of standard business commercial stationery envelopes.

The value of government envelope shipments is approximately $68 million in sales, primarily distributed between the Government Printing Office, the General Services Administration, and approximately 8 percent of this sum is produced by the U.S. Postal Service. These are all under SIC Code 2677.

UNICOR is moving forward to open up an envelope manufacturing facility located in Atlanta, GA. It is still the subject of which we have great opposition. I am not going to deal with that subject this afternoon. Rather, I am going to talk about the ways that we can continue to work together to assure cooperation.

Many statements you have made this morning I think parallel those of the thinking of many in our industry, in terms of ways that we can move forward on this entire program together.

One, continue to communicate, as we said this morning, and hold hearings on the market study. I think it has been well-established today that the market study contains a great deal of food for thought for us all. It is worth while for us to continue to take advantage of the investment we made in that study, to hold hearings and to gather information from all sides, in terms of how people are reacting to that information. I also agree with the statement that Marcie made—that we do not consider this study the ultimate solution to all of our problems. We feel that the study report is a document that should be discussed more thoroughly.

Two, that we all ought to come to agreement on solutions before taking them to Capitol Hill. I think there has been too much banging on desks up here, and going to see your Member of Congress, and complaining about UNICOR. I think we are finding, through this process of communication that we have had, that we do have

the ability to work out solutions among ourselves, and then bring them back to Capitol Hill as joint solutions.

Three, accurately define UNICOR's Federal market share. I am sure it is no surprise to anyone on this committee that the Federal Government has a very difficult time tracking what it buys and correlating those purchases by industry. We use the SIC Codes for tracking industry size, and we also need to use the SIC Codes for tracking UNICOR's markets. The problem has been that this is easy to accomplish at the four-digit level, but more difficult to accomplish at the seven-digit level.

I note that the Office of Federal Procurement Policy, within the Office of Management and Budget, has embarked upon a project to define Federal procurement at the seven-digit SIC Code level. This will enable us to assess UNICOR's Federal market share by product. This is a key to resolving many of our disputes over data.

Four, develop a model to assess inmate growth against growth in Federal procurement opportunities. UNICOR should attempt to create a mathematical model to enable it to scan markets where it might find future opportunities for growth. Even more important is the use of demand forecasting and forced planning models as a relatively objective analytical tool in maintaining a dialog with private sector firms also operating in a Federal marketplace. Such a model would give UNICOR and private sector firms the ability to create various scenarios and choose that scenario that minimizes the negative impact on a targeted sector of Federal contracting opportunities in which UNICOR and private sector firms must jointly compete.

Five, step up to the issue of a market ceiling. This is a very difficult subject for UNICOR to address, that is the subject of an absolute ceiling, by product/market, on its procurement. There is a real fear, on the part of UNICOR, that, once a ceiling has been established, it will never be removed? Where will inmates find employment? Yet, if UNICOR continues to expand into traditional markets, it will continue to displace more and more workers, shut down businesses, and face an ever-growing opposition on the part of industry and labor. UNICOR must be a good neighbor to labor and industry if it is to survive. It must give industry and labor positive assurances that it will not grow within a product or segment beyond a certain point. Not a ceiling on new growth, but a ceiling on all growth.

Six, work out a method where subcontracting opportunities will present themselves. UNICOR cannot be a subcontractor as well as a primary contractor on Federal procurement. On some procurement, it might only want to sell a labor component, rather than take title to a Federal product. On others, it may want to take responsibility for a manufacturing step, or packaging or maintaining a product. The impediments to subcontracting must be removed, but not at the expense of market growth controls on UNICOR. If UNICOR wants cooperation with Federal contractors, then it must offer those contractors an opportunity to protect their workers.

Seven, consider offshore growth opportunities and production of products for sale in the private sector very carefully. We ultimately have to address the issues of production of goods already produced offshore, and moving toward partnering opportunities with the pri-

vate sector. The growth of the Federal market will probably be very limited in the future. As we move away from cold war defense industry, there will be fewer military boots, gloves, clothing, furnishing, electronic gear, et cetera. Cutbacks in defense will displace many Federal inmates and, if we are not careful, we will also displace many American workers who pay taxes in nondefense industries, who are very dependent on government contracts.

Finally, begin a more comprehensive effort to encourage industry and labor participation in the crisis we are facing in prison population growth. It seems that every time Congress passes a new crime bill, there are more minimum mandatory Federal sentences. These new minimum mandatory sentences mean more inmates for Federal prisons and more inmates to keep occupied in a Federal prison. No one will argue that keeping inmates busy is not a better prison management tool. However, none of us wants to pay for the cost of incarceration and management of our Federal prison system. We all feel that mysteriously somehow it is going to be handled in the Federal budget.

The UNICOR program represents another way we, as citizens, pay for our prison system. Many citizens pay for it with their jobs, some with their futures. It is time to get private industry and labor much more involved in the big picture, not just dealing with the results of our system of Federal criminal justice, more inmates. We need more summit conferences at the highest levels to communicate this national crisis. Leaders of labor and industry must understand the future direction of Federal inmate growth if they are asked to cooperate with UNICOR to provide ways of reducing the cost of management of the inmate population. Being tough on crime should not mean being tough on the American worker.

Thank you.

Mr. HUGHES. Thank you, Mr. Benjamin.

[The prepared statement of Mr. Benjamin follows:]

PREPARED OF MAYNARD H. BENJAMIN, EXECUTIVE VICE PRESIDENT, ENVELOPE MANUFACTURERS ASSOCIATION OF AMERICA

Mr. Chairman, my name is Maynard H. Benjamin. I am the Executive Vice President of the Envelope Manufacturers Association of America located in Alexandria, Virginia. We are an organization of 80 corporate entities that represent 151 envelope manufacturing plants producing over 65 percent of all envelopes made in the United States.

The envelope industry in the United States is small by most standards. There are only 205 envelope converters in the continental United States which produce approximately $2.5 billion in shipments value in 1992 of which about 70 percent or $1.7 billion were sales of standard business and commercial stationery envelopes.[1] The value of government envelope shipments is approximately $68 million in sales primarily distributed between the Government Printing Office and General Services Administration. Approximately eight percent of this sum is produced by the United States Postal Service. These sums all fall under SIC 2677 and related subdivisions of this SIC code.[2]

INVOLVEMENT WITH FEDERAL PRISON INDUSTRIES

Our involvement with Federal Prison Industries (UNICOR) began in December of 1989 when we received a letter and market study from Federal Prison Industries

[1] United States Department of Commerce, "U.S. Industrial Outlook 1993—Paper and Allied Products," p. 10-20.

[2] Envelope Manufacturers Association of America, Estimates of Government Sales of Envelopes, 1992.

proposing to build an envelope manufacturing facility for the purpose of production of envelopes for sale to the federal government. We received a copy of the market study prepared in 1989 and went about a process of notice and comment to respond to the market study and UNICOR's intended direction with regard to envelope manufacturing. We were given opportunities to reply to the study and to appear before the UNICOR Board of Directors in May, 1990.

Although the UNICOR Board of Directors has authorized UNICOR to move forward into envelope manufacturing, in spite of our objections and presentation of information which would contradict their study conclusions, we remain categorically opposed to UNICOR's entry into capital intensive industries like ours. In addition, we are also opposed because UNICOR will not employ many inmates as a result of this venture. Their own market study calls for the employment of 130 inmates, yet they will cause to be laid off approximately 67 workers in envelope manufacturing facilities—workers who pay taxes, who support their community and who vote.

Several findings of this market study are worthy of comment at this point:

Finding:

"The envelope industry in the United States has been characterized by steady growth for the past ten years, and is expected to continue to expand at a moderate pace during the next five years. The value of product shipments in 1989 totaled $2.9 billion."[3]

This market estimate is roughly correct for 1989. Actually, the value of shipments was overstated by UNICOR by $84 million by U.S. Department of Commerce estimates.[4]

However, the industry did not grow at a moderate pace, in fact sales have fallen by $316 million since 1989.[5]

Finding:

"The industry consists of an estimated 520 domestic producers and, although there are a half-dozen corporate giants, over 90% of the manufacturing locations have fewer than 250 employees. Over 80% of the firms have annual sales volumes of less than $10 million. It is an industry that is overwhelmingly dominated by small business."[6]

There were only 222 domestic producers of envelopes in 1989, and there were approximately 220 imprinters or printers of envelopes, not converters. Today, as indicated above, there are 205 envelope manufacturers by our industry estimates.

Finding:

"The federal government market for envelopes reached almost $70 million in 1989, and is forecasted to grow at the same annual rate (2.5%) as the market as a whole. The size of the market and its projected rate of growth, are large enough to support current and potential vendors and UNICOR."[7]

Our best estimates presented to UNICOR indicated that the market was only $66 million for government envelopes in 1989. In addition, the market which UNICOR is seeking to compete in is much smaller and defined by the "commercial sizes of envelopes" normally procured by the GSA.

GPO and Postal Service. Again, based on our market estimate of $66 million we also subtract $10.4 million in padded envelope sales and $10 million in stamped envelope products produced by the Postal Service for a net market of $46 million for "commercial envelopes." This would represent 21% of the federal market for commercial envelopes based on 1989 numbers, not the 11.5% which UNICOR estimates.

The sizing of a market, especially the federal segment, is a critical factor in UNICOR's determination of the value of that market for production of product, creation of inmate employment opportunities and minimization of impact on the private sector. The reason for these differences in data stemmed from UNICOR's operating guidelines which did not consider industry data early enough in the decision-making process. In addition, the focus on the total industry, both public and private segments, in our estimation is erroneous. Some manufacturers adapt themselves to marketing to the federal government. Clearly, the primary concern for UNICOR's

[3] Hagerty, James Emmett, "An Analysis of the Impact On Private Industry Resulting From UNICOR's Entry Into Envelope Manufacturing," UNICOR, Product Development Group, October 31, 1989.
[4] Same as 1.
[5] Same as 1.
[6] Same as 3.
[7] Same as 3.

72-576 O - 94 - 3

competition with private sector firms is the percentage market in the federal sector that they will occupy.

It should also be pointed out that UNICOR did provide labor and industry with an opportunity to comment on its guidelines in July of last year.[8] One of the items that we discussed was the issue of collecting valid market data and correct data on federal procurement by 7-digit SIC code. I also note that on February 11, 1993 UNICOR did make a request to the Office of Federal Procurement Policy to provide more detailed information on 7-digit procurement.[9] We feel that the presence of that operating data will accomplish a long-needed understanding of all parties on UNICOR's federal market share across all products which it currently produces, thus ending a great deal of dispute with the private sector over how much of the federal market UNICOR occupies.

THE CURRENT ENVIRONMENT

UNICOR still has not opened a factory to manufacture envelopes yet they plan to do so by next year. According to a recent procurement issued by UNICOR, they would like to open a 50,000 square foot facility manufacturing envelopes for the federal government located in Atlanta, Georgia. That facility is expected by UNICOR to produce $2.5 million in sales of product in the first year and is projected to increase to approximately $10 million by the third year, but will not exceed 12% of the federal market.[10]

The Market Study presented earlier projected that UNICOR wanted to employ 130-plus inmates on two shifts. Assuming that UNICOR does reach $10 million in sales by the third year, it will produce approximately 519 million envelopes by our calculation. An engineering analysis completed by our industry indicated that to produce this quantity of envelopes would cost approximately $4.9 million, and support equipment would cost an additional $756,000. This does not include construction and other facilities costs which we estimate at $2.8 million. So the entire "front-end" cost of this facility is $8.46 million.[11]

The above represents a per-inmate employed cost of $65,076.92 not including the other costs of incarceration which are over and above these sums, but let's not worry about those costs for now. If UNICOR sells $2.5 million worth of envelopes in 1994, it will spend approximately $900,000 on paper, another $20,000 on adhesives, gum and window film. It has an overhead cost of $283,000 in equipment projecting a 20-year life, and it will have a supervisory staff of three with a minimum payroll of $120,000 with another $85,000 in taxes, benefits, etc. There are even more costs as this analysis goes on such as sales, training, transportation, etc. In sum, UNICOR will be fortunate if it breaks even after three years of operation. That is probably why very few companies have bid on UNICOR's procurement. It just does not make good sense as a business transaction.

On average, it will take UNICOR from three to five years to train an adjuster, four to six months to train a pressman and two to four months to train an inspector/operator. If a die-cut press is acquired, add one-year. If a "jet press" is required, add seven months.[12] If it is fortunate and able to train its work force it will probably be making quality products in the fourth year.

It is also unfortunate for those inmates because they will probably never be able to get a job as an inspector/operator, pressman, cutter or adjuster in the envelope manufacturing industry. We have downsized our industry significantly. In fact, over the past three years we have eliminated 2,500 jobs. Those inmates that work in the envelope factory will learn what it is like to have a job, they will learn certain mechanical skills, and they might develop some other skills that are somewhat transferable; however, even an envelope press is unique.

UNICOR has been somewhat fortunate in the past. By concentrating its operations in five core industries, it has been able to achieve sufficient economies of scale in sufficient size markets where it can return funds to the Treasury. However, as it moves forward to diversify its operations, the start-up costs and learning curve that it must master from each new industry that it enters will cost UNICOR a great deal of money and operating efficiency. It will survive this transition only because ultimately, the government must support this program either by purchasing goods

[8] U.S. Department of Justice, Federal Prison Industries, "Letter from Richard P. Seiter," July 23, 1992.
[9] U.S. Department of Justice, Federal Prison Industries, Inc., "Letter to Mr. Robert Neil," February 11, 1993.
[10] Federal Prison Industries, "RFP IPI-R-0002-93," Description/Specifications/Work Statement, p. 5.
[11] Hill, Charles, E., "Letter To Donald Schwartz," February 15, 1990.
[12] Same as 11.

via the "super-preference" or providing greater incentives for labor and industry to work with UNICOR.

HOW CAN COOPERATION WITH INDUSTRY AND LABOR BE ACHIEVED?

This Committee was instrumental in getting the first Market Study of Federal Prison Industries completed in 1992 (The Deloitte-Touche study). That market study offered a number of observations and recommendations, some of which industry and labor are in agreement with, and some of which were not. Many trade associations and labor organizations participated in that market study. Many of us spent hours in interviews, supplying data, and in briefings on preliminary results. The end-product was very disappointing in that there were very few federal opportunities for UNICOR in which to expand its market share without continuing to focus on the five traditional industries in which it already has significant market share.

In June of 1992, through the cooperation of the Brookings Institution, many of the affected industries and labor organizations met with representatives from the Department of Justice, the Administration and the Federal Bureau of Prisons to discuss our thoughts on the market study and other key concerns. This "Summit" Conference gave us all the opportunity to air our grievances and to begin to work on resolution of key issues which separated us. After the "Summit" we formed two working groups, one on communications and one on growth strategies that continue to meet to this day. We have come a great distance but we still have a great distance to go.

Here are some thoughts on how we might move closer to eliminating many of the issues which separate us.

1. Continue to Communicate! Hold Hearings on the Market Study.—The "Summit" Conference began a process of communication between all of the affected groups which continues to this day. While we are not all in agreement on solutions, we are talking outside of Capitol Hill not "banging on desks" on Capitol Hill. This is a slow, sometimes agonizing process, where many growth opportunities are addressed only to find out for some reason or another they just will not employ enough inmates to be useful or they will negatively impact jobs in the private sector.

It is surprising that given the number of observations, findings and recommendations contained in the UNICOR Market Study prepared by Deloitte-Touche, the Judiciary Committee has not yet held hearings on this study to gather reactions to the study from UNICOR, labor and industry. Given the significance of this study and the dollar expenditure involved, it might prove to be useful to hear from the analysts who completed the work as well as from those who provided data and other input to this important study.

2. Come to an Agreement on Solutions Before Taking Them to Capitol Hill.—There have and will continue to be a wide array of bills introduced to "fix" something with regard to the Federal Prison Industries program. Whether they be for demonstration projects or modifications to UNICOR's operating authority, the chances of their being useful to all groups are extremely limited. Industry, labor and UNICOR need to come to some basic agreements on the future if comprehensive legislation to move this program forward is to ever be effective. Those basic agreements do not yet exist but with each meeting we do move closer.

3. Accurately Define UNICOR's Federal Market Share.—I am sure it is no surprise to anyone on this Committee that the federal government has a very difficult time tracking what it buys and correlating those purchases to an industry. We use the SIC codes for tracking industry size, and we also need to use SIC codes for tracking UNICOR's markets. The problem has been that this is easy to accomplish at the 4-digit level but more difficult at the 7-digit level. The Office of Federal Procurement Policy within the Office of Management and Budget has embarked upon a project to define federal procurement by 7-digit SIC code which will enable us to assess UNICOR's federal market share by product. This is a key to resolving our disputes over data.

4. Develop a Model to Assess Inmate Growth Against Growth In Federal Procurement Opportunities.—UNICOR should attempt to create a mathematical model to enable it to scan markets where it might find future opportunities for growth. Even more important is the use of a demand forecasting and force planning model as a relatively objective analytical tool in maintaining a dialogue with private sector firms also operating in the federal marketplace. Such a model would give UNICOR and private sector firms the ability to create various scenarios and choosing that scenario that minimizes the negative impact on a targeted sector of federal contracting opportunities in which UNICOR and private firms must jointly compete.

The primary inputs of a force structuring model are those elements which represent its variables. In dealing with the force structuring size first these would in-

clude: prison size, inmate population and eligible inmate population. Why not more? Because each of these three elements define the maximum number of factories that can be included within a prison. In essence, the size of the current prison in square feet determines the maximum inmate strength under ideal conditions. Through an assessment of work abilities and the security requirements of the institution, an eligible work force can be developed. It is that available work force that must be employed, or remains underemployed, if there is insufficient work available in the facility to support the eligible inmate population.

The inputs to a demand forecasting model would include: industry value of shipments (correlated to 4-digit SIC code gained from Industry Association or U.S. Department of Commerce), UNICOR current market sales (correlated to 4-digit SIC code), UNICOR's current market share (dividing value of shipments by UNICOR market sales), UNICOR Federal Share (dividing Industry Segment Sales) (provided by industry) by UNICOR's 7-digit SIC sales, and production worker per million dollar of shipments value (from U.S. Census of Manufacturers).

The model would first array value of shipments by SIC code adjusted by the Consumer Price Index. UNICOR's sales data would then be correlated against the array value of shipments in SIC order/down to seven digits if the array can be built. UNICOR's current market share is easily derived by dividing the second array by the first in either four or seven digit detail. Five-percent gross up limits could then be calculated after the UNICOR share is determined.[13]

Next a subsidiary table array would have to be developed to calculate production worker per million dollar value of shipments value added. This would have to be calculated as the difference between the value of the final product and the value of the purchased inputs using UNICOR accounting data. That array would be matched against the first array in SIC code order.[14]

The final calculation would take the five percent increment, multiplied by production worker per million dollar value of shipments value added and dividing the result by one million to show the net increase in employment per five percent increment per UNICOR market segment.

5. Step Up To The Issue Of Market Ceiling.—A very difficult subject for UNICOR has been the concept of an absolute ceiling by product/market on its procurement. There is a real fear that once a ceiling has been established it will never be removed, and where will inmates find employment? Yet, if UNICOR continues to expand into traditional markets it will continue to displace more and more workers, shut down businesses and face ever-growing opposition on the part of industry and labor. UNICOR must be a "good neighbor" to labor and industry if it is to survive. It must give industry and labor positive assurances that it will not grow within a product or segment beyond a certain point—not a ceiling on new growth but a ceiling on all growth.

For example, why not set an absolute percentage of the federal market across the board as a goal initially. Also agree to report to those affected industries on a monthly basis by 7-digit SIC code, which defines product, the cumulative procurement year-to-date and monthly procurement. A share of that product/segment could be easily computed. This report could also be provided to Congress for monitoring purposes.

When that procurement goal was reached, UNICOR would suspend use of the "super-preference" for that product or segment until such time as its market share fell below that goal. Another alternative would be to phase-out the preference as a percentage by which UNICOR exceeded that procurement goal. Clearly, this would mandate diversification across other federal procurement. This would also encourage partnering arrangements or subcontracting arrangements in order to promote cost-effective diversification.

6. Work Out a Method Where Subcontracting Opportunities Will Present Themselves.—UNICOR can be a subcontractor as well as a primary contractor on federal procurement. On some procurement it might only want to sell a labor component rather than take title to a federal product. On others, it may want to take responsibility for a manufacturing step, or packaging, or maintaining a product. The impediments to subcontracting must be removed but not at the expense of market growth controls on UNICOR. If UNICOR wants cooperation with other federal contractors, then it must offer these contractors an opportunity to protect their workers.

---

[13] Warren-Boulton, Frederick R., "An Economic Analysis of UNICOR's Plan To Enter Envelope Manufacturing: What Kinds of Products Should Prisoner's Make?" ICF Consulting Associates, August 16, 1990.

[14] Same as 1.

7. Consider Offshore Growth Opportunities and Production of Products for Sale in the Private Sector Very Carefully.—We ultimately have to address the issues of production of goods already produced off-shore and moving toward partnering opportunities in the private sector. The growth of the federal market will probably be very limited in the future. As we move away from a "Cold War" defense industry, there will be fewer military boots, gloves, clothes, furnishings, electronic gear, etc. Cutbacks in Defense will displace many federal inmates and if we are not careful we will also displace many American workers, who pay taxes, in non-Defense industries who are very dependent on government contracts.

While our balance of trade is a critical measure of the health of our economy, we have to remember that just because a computer is produced overseas it does not mean that the component parts are produced overseas. It also is important to keep in mind that in a trade war nobody wins. Any venture to repatriate "American" goods must be studied carefully. We cannot afford to displace any American workers.

Private sector cooperation will not come without effective controls on UNICOR market growth in the public sector. In addition, as UNICOR orients itself to more and more manufacturing opportunities in the public sector it ignores the shift in job growth away from manufacturing into services in the private sector. American manufacturing is learning to be competitive in a world environment. American labor is also adapting its representative work force to allow American manufacturers to be more competitive. This will mean fewer manufacturing jobs or manufacturing jobs in skill areas that require knowledge of computers and other information sciences skills. Every time a mature industry is chosen by UNICOR for entry, UNICOR moves farther away from the mainstream of American manufacturing. It will not achieve private sector cooperation if it remains on its current course.

8. Begin a More Comprehensive Effort to Encourage Industry and Labor Participation in the Crisis We Are Facing in Prison Population Growth.—It seems that every time Congress passes a new crime bill there are more minimum mandatory federal sentences. These new minimum mandatory sentences mean more inmates for federal prisons and more inmates to keep occupied in a federal prison. No one will argue that keeping inmates busy is a better prison management tool. However, none of us wants to pay for the costs of incarceration and management of our federal prison system. We all feel that mysteriously, it is some how "handled" in the federal budget. The UNICOR program represents another way we as citizens pay for our prison system. Many citizens pay for it with their jobs, some with their futures.

It is time to get private industry and labor much more involved in the "big picture" not just dealing with the results of our system of federal criminal justice—more inmates. We need more summit conferences at the highest levels to communicate this national crisis. Leaders of labor and industry must understand the future direction of federal inmate growth if they are to be asked to cooperate with UNICOR to provide ways of reducing the costs of management of the inmate population. Being "tough on crime" should not also mean being tough on the American worker.

Mr. Chairman, we have come a long way in the past year working together. We have a great deal of work still ahead of us but I am confident that we should be able to resolve many of the issues that separate us. I greatly appreciate your kindness in allowing me to submit this statement on behalf of the industry I represent.

Thank-you very much.

Mr. HUGHES. Ms. Perry, welcome.

STATEMENT OF SUSAN PERRY, DIRECTOR, GOVERNMENTAL AFFAIRS, BUSINESS AND INSTITUTIONAL FURNITURE MANUFACTURER'S ASSOCIATION, GRAND RAPIDS, MI

Ms. PERRY. Thank you, Mr. Chairman. I have to apologize for a cold I have. Please bear with me.

I am Susan Perry. I am the director of governmental affairs for the Business and Institutional Furniture Manufacturer's Association. I am also here representing the American Furniture Manufacturers Association, and the Coalition for Government Procurement. I would like to just have my statement put into the record without my going over it, because a lot of the statement is basically an enu-

meration of problems that we have found with Federal Prison Industries. I really do not want to dwell on that.

Mr. HUGHES. We have your statement. We have read it, as I indicated. It is part of the record.

Ms. PERRY. Thank you. I do not want to be here today complaining, because I have been doing that for 5 years, and it has not accomplished much. In the past 3 years Federal Prison Industries sales of furniture and metal products, which includes metal furniture, has risen from fiscal year 1990, $108 million, fiscal year 1991, $143 million, fiscal year 1992, $199 million. For some reason, this has not triggered significant expansion requirements, as laid out in the guideline procedures.

As an industry, we are taking a beating. As people on the panel have stated, furniture has borne quite the brunt of the Federal Prison Industries program. We have met with you before, Mr. Chairman, and you have said to us that you hope that there would be a rollback in the traditional industries. You also indicated to us that there was a responsibility that we had to come up with other products and other programs for prisoners to go into. We agree that it is important for prisoners to work, that it is an excellent control mechanism within the Federal prison system, especially now that parole has been eliminated for new prisoners. So, we were very disappointed with the Deloitte & Touche report not coming up with any new products or services for prison industries to go into. I think probably part of that problem was because accountants were hired to do this, and accountants are not supposed to be creative, after all. If they are creative accountants, they end up making prison furniture.

So, we went within our own industry and tried to look for ideas. We are a creative industry, of course. It is a design-based industry. So, we opened it up to our members, and to the other people within our industry to come up with ideas. We have examined a number of these. We have come up with three major ones that we feel would employ a large number of inmates.

As mentioned before, the recycling programs could be used. We are looking specifically at plastic recycling. Currently, in the United States today, less than 2 percent of the plastic is recycled. The reason that more is not being done is because it is very labor-intensive and very costly at minimum wage to sort plastics. Having come into Washington very late last night, it is hard to come up with—I am notorious for props during a hearing—in going through my own luggage, two plastic bottles. They look identical, same manufacturer, same stuff in them. Two different codes on the bottom. One is a high density polyethylene, and the other is a low density polyethylene. These have to be sorted to make them valuable if they are going to be used in recycling. It is a case of literally picking up the plastic, reading the code on the bottom, and throwing it in a specific bin. It does not take a lot of training. It is not capital-intensive.

If you watched last night's "American Agenda" on "ABC News," you saw the Germans sorting trash, which is part of their environmental policy over in Germany now. This is something that prisoners could be doing, where they are repaying the society that they have damaged through their crimes. It is not taking jobs away from

the American worker, because it is not economical for the American worker to do this.

I use, for example, Congressman Moorhead. Every time I have talked to him, he has always asked what can be done at Terminal Island in California? Plastic sorting could be done at Terminal Island. Look at the plastic that has accumulated in southern L.A., Los Angeles County, Orange County, the Long Beach area. It would be a case of—a company like Waste Management, or Laidlaw, picking up the plastic that has been put in recycling bins, or at curbside, bringing it to the prisons, running it through a metal detector, having prisoners sort it. The company—the Waste Management Company would maintain control and ownership of the plastic, and they take it out the other end. They contract with the Government for that sorting service.

With only 2 percent of the plastic in the United States being recycled today, I have been told by people within the plastic industry, that you could probably employ every prisoner, be it Federal, State, local, or down to the county drunk tank, in doing this type of thing, because the demand is there. The use for the recycled plastic, the need for recycled plastic is there. The American public wants to recycle plastic. The hitch—the bottleneck is the cost of sorting it.

Other areas that we have looked at as an industry—and, of course, our industry, being very dependent upon wood, and tropical woods, is the rain forest—sustainable forestry projects. It sounds pretty strange, I am sure, to be talking about prisoners, and sustainable forestry down in the Tropics; but one of the major pressures on the tropical rain forest today is needing fuel, cutting trees down to be used to cook their evening meal.

Prisons factories today are set up as sheet metal plants. They can do the manufacturing of sheet metal products. One of the products that could be used in the rain forest, and be supplied is partly humanitarian aid programs from the Federal Government—would be solar cookers. These are the solar ovens that we made in Girl Scout camp. We put them out in the sun. I have cooked a pizza in Michigan in February on one of these things. So, people in the Tropics no longer have to cut down endangered species and tropical wood for fuel, but, instead, make this part of an aid project.

The third thing that we are looking at is food processing. "ABC News," about a year and a half ago, ran a special where they were showing that a major canner of green beans was landfilling a ton of green beans a day—a ton a day because they were cosmetically unacceptable to the American consumer. They were too big. They were too small. They had a gash in them, something like that. They were perfectly edible, perfectly fine. Someone like my mom, if she opened up the can, would say that, these are not good. They are too big, or too small, or whatever. It is a sin for people in this country to be going hungry when these kind of things exist when you have prisoners who could be processing this kind of food. The nectarines that are too small, the oranges whose peel is too green, all of the types of produce and products that the Agriculture Department will not allow be sold could go into the prisons and be processed, canned, made into juice, freeze dried, stable packed, whatever, and then, in turn, be part of packages to homeless shel-

ters. The Government could give them away, as part of aid, the same as they do with the surplus cheese and milk products.

These are some things worth thinking about. It takes an altogether different look at what Federal Prison Industries' mandate is.

I am very concerned that Federal Prison Industries wants to become the major supplier of products to the Federal Government. We see it happening in our industry when there are sales of furniture and metal products, which is almost up to $200 million a year. As stated before, right now, they are the eighth largest manufacturer of office furniture in this country, and moving up fast on number seven. In a time when our industry dropped 12 percent, and there are no jobs—if you are training people for jobs out in the private sector in the furniture industry, there are no jobs, because today you are not only paying for an inmate, but you are paying for unemployment for the person that has lost their job because of the inmate working. So, I think that is imperative.

We are taking a leadership role on this. We, as an industry, have formed a working alliance, where we will go out and try to develop these ideas into workable projects for prison industry. We are not going to come to the Government for money to fund this type of project. We are going to take it on ourselves to do it, because we understand that there is a need to direct the work of prisoners into something other than furniture, and we hope that we can come up with some answers.

Thank you.

Mr. HUGHES. Thank you, Ms. Perry.

[The prepared statement of Ms. Perry follows:]

PREPARED STATEMENT OF SUSAN PERRY, DIRECTOR, GOVERNMENTAL AFFAIRS, BUSINESS AND INSTITUTIONAL FURNITURE MANUFACTURER'S ASSOCIATION, GRAND RAPIDS, MI

My name is Susan Perry and I am the Director of Governmental Affairs for the Business and Institutional Furniture Manufacturer's Association which represents the manufacturers of business, office, and institutional furniture. In addition, I am also representing the American Furniture Manufacturers Association, manufacturers of residential, dorm, and quarters furniture, and the Coalition for Government Procurement. I am pleased that this Subcommittee has called for this hearing as Federal Prison Industries continues to be a major problem for the manufacturers of furniture and related metal products.

Let me state first that our industry recognizes the value of prison industries as a correctional tool and a means of teaching inmates a basic work ethic—learning to get up in the morning, go to work, and report to a boss.

President Clinton promised that those who work hard and play by the rules will be rewarded. I assume that he has not confronted Federal Prison Industries.

Established by Congress in 1934 as a means to keep prisoners busy, FPI has grown into the $417 million business it is today by taking jobs away from those who work hard and play by the rules, and giving those jobs to inmates who have violated society's rules. What was to have been a non-intrusive prison work program, has become the size of a Fortune 500 company and one of the top ten manufacturers of office furniture in the United States. Mandated by Congress to "provide employment for all physically fit inmates in the United States penal or correctional institutions, diversify, so far as practicable, prison industrial operations *and so operate the prison shops that no single private industry shall be forced to bear the undue burden of competition from the products of the prison workshops, and to reduce to a minimum competition with private industry or free labor.*" (emphasis added) FPI has displaced thousands of workers, not only in furniture and metal products, but also in the fields of electronics, textiles and apparel (the "four traditional industries").

We honestly believe that Congress never intended for Federal Prison Industries to be the predator that it has become. The original Congressional mandate specifically protected industries and labor from the potential adverse impact that this pro-

gram could have. But through high pressure tactics and aggressive use of their mandatory preference (superpreference), FPI has grown dramatically in the past few years.

In 1988, FPI requested the authority to borrow money from the federal treasury. Congress wisely voted against this raid on the American taxpayer and the bill was defeated on suspension. Subsequently, the language was attached in the Senate to the 1988 Omnibus Drug Bill which then passed both the House and Senate and was signed into law by President Reagan. Given this authority to borrow money to expand its operations, FPI has begun an empire building spree unrivaled in our industry.

As part of the borrowing authority that FPI acquired in 1988, it was to adhere to guidelines established with input from industry and labor. Industry agreed to work with FPI to reach some sort of compromise whereby we all could agree on what constitutes "significant expansion" and "market share" terminology. No actual compromise was reached and FPI established their own guidelines over industry's objections. Even with these "guidelines" in place, we continue to raise legitimate objections to FPI's continued expansion. While their sales of furniture and metal products grew from $107.4 million in 1987, just before the guidelines were put into place, to $199.3 million in 1992, FPI has yet to trigger the "significant expansion" provisions of the guidelines procedures and contact the effected industry.

In 1989, industry representatives appeared before this subcommittee to express our concerns about the rapid growth of FPI and its impact on our industry. We indicated at that time that there had to be other products and services that would spread the burden of this program more fairly.

In 1990, Deloitte & Touche was commissioned to perform a market study to determine new products and services for FPI expansion. Deloitte & Touche apparently had little knowledge of procurement policy and ignored most of the information provided by industry. They also lacked the creativity to discover new products as their study did not specifically name a single product. They did state that FPI should "phase out" of the traditional industries, yet offered no viable alternatives.

Armed with this study that did not achieve what had been assigned, FPI has used it as their premise for all of their subsequent actions.

A "Summit Meeting" was held at the Brookings Institution to bring together industry, labor, Congressional staff and representatives from agencies to meet with FPI and attempt to resolve some of our difficulties. While BIFMA was not part of the original list of invitees, we were included at the insistence of Congressman Payne. Hopeful that this would in fact lead to some form of relief for our industry, we attended the Summit and subsequent meetings, dealing in good faith with FPI even though the impartiality of the proceedings disappeared as FPI eventually took over the activities of the group.

Hope turned to discouragement as industry and labor were routinely outnumbered by representatives of FPI, the Bureau of Prisons and Department of Justice, sometimes as much as five to one. Agreements in principle as to caps and roll-backs based on sales figures, reached between industry and the Director of the Bureau of Prisons, disappeared with Director Quinlan's resignation. Proposed "caps" based on number of inmates, without regard to the size of the market, were then drafted by FPI. Good faith evaporated when FPI proposed legislation that would:

allow it to compete directly with private industry and labor for commercial (non-Government) sales;

unreasonably restrict the flow of information from FPI to industry and labor by exempting FPI Advisory Committees from the Freedom of Information Act;

destroy "Full, Fair and Open Competition" among suppliers by allowing FPI to contract with a chosen few; and,

eliminate any effective oversight or review of FPI's procurement practices—practices that the General Accounting Office (GAO) frequently has found violate federal procurement laws and regulations.

The ultimate example of disregard for those potentially impacted by their actions, was FPI's request that Federal Government Prime Contractors receive credit for subcontracting to Federal Prison Industries. This would allow Prime Contractors to fill their small business or small/disadvantaged business requirements by subcontracting with FPI, circumventing the true purpose of these set-asides.

All of these proposals have been, and will continue to be, opposed by the furniture industry. FPI unfairly takes jobs away from hard working, law abiding, taxpaying Americans. Any FPI proposal that further encroaches on the private sector is misguided and dangerous to the American way. FPI should not have subcontracting agreements with private sector firms that would allow select subcontractors to take advantage of FPI's low wages, and their superpreference. Sales to the private sector without true guarantees that FPI would have to meet *all* of the requirements of a

private sector company including prevailing wage, health and safety rules, environmental regulations, etc., would put the government in an extremely unfair competitive position. While allowing FPI to manufacture products "currently made offshore" and selling them to the private sector sounds laudable, they have been unable to give a single example of a product that would not affect a small business somewhere in this country. Lack of labor intensity is still an issue as FPI continues to use kits which require only light assembly to fulfill its sales orders. And quality, deliverability and pricing continue to be problems as sales outstrip their ability to produce product, leading to a backlog as large as $60 million last year.

And so the same problems continue—FPI claims that there will be rioting in the prisons if their program is in any way curtailed and industry and labor point out that the government is not only supporting the inmate, but also the worker on the unemployment line who has been displaced by the inmate. Our faith in the process is disappearing as FPI's sales of furniture and metal products went from $144 million to $199 million during our latest negotiating session. At this rate we cannot afford to continue to negotiate—the $55 million increase represents more jobs lost in our industry, an industry which continues to feel the effects of the recession, government and white collar downsizing, and imported products.

We need relief. We need help. We need your attention to this problem.

Thank you.

Mr. HUGHES. I heard some data earlier which was furnished by the Director of the Federal Bureau of Prisons about the market share for furniture. It suggested that, basically since 1988, that Federal market share had decreased from about 12.33 percent to 8.96 percent in 1991. Is that data inaccurate?

Ms. PERRY. I have no way of knowing where Dr. Seiter obtained this data. I do know that their sales in fiscal year 1990 were $108 million; in fiscal year 1991 were $143 million; and in fiscal year 1992 were $199 million. At the same time, market share decreased. I am not sure where these numbers are coming from.

Mr. HUGHES. Is it possible that—has the furniture business increased significantly?

Ms. PERRY. No.

Mr. HUGHES. Has it remained relatively static, or has it decreased?

Ms. PERRY. It is decreasing. We are a hard-hit industry. Not only are we hit by the recession, but also by imports, and downsizing.

Mr. HUGHES. Well, you have a great advocate on this committee. Howard Coble fights for you continuously.

Ms. PERRY. Yes. Our watchdog, yes.

Mr. HUGHES. As a percentage of total sales by Federal Prison Industries, furniture does constitute a higher percentage. That does give me some concerns. Your testimony indicates that your association supports caps. How would you determine what would be a reasonable cap?

Ms. PERRY. We are very concerned, because we thought we had an agreement with Mike Quinlan, when he was Director of the Bureau of Prisons, that caps would be determined on the percentage of the market, and based on sales figures. Now, the proposal that has been put forth recently by Federal Prison Industries, says that caps should be based on the number of inmates. I will tell you, a private sector company would love to be able to say I would like to employ another 100,000 people, or another 10 people.

Mr. HUGHES. My question to you is how would you determine it?

Ms. PERRY. I would say that it would have to be based on a sales number—on a number—a sales dollar number. The problem we have run into, and, as you have said before, nobody knows what the Federal market is. Based on a percentage——

Mr. HUGHES. Mr. Benjamin has made some very good suggestions. We could do a better job of tracking that. That has been one of the criticisms. I think that is a legitimate criticism, that we should be able to rectify.

Let me ask you one more question before I move on to some of the other panelists. In your written statement you say that, referring to the summit talks, that good faith evaporated when FPI proposed legislation that would allow it to compete directly with private industry and labor for commercial, that is nongovernmental sales. When did FPI propose that legislation?

Ms. PERRY. We had—and I can present it for the record, as part of the minutes on—and the date escapes me—part of the minutes that we received from one of the meetings in I think November.

Mr. HUGHES. Yes. Who did they propose it to? Because I never——

Ms. PERRY. They proposed it to the Brookings summit group. No, it has not been introduced. I am sorry if I misled you, or you were misled at all. It was proposed to the group, to the Brookings group.

Mr. HUGHES. By whom?

Ms. PERRY. Rick Seiter, is my understanding. I will make a copy of that available to you.

Mr. HUGHES. I find that interesting. Because I have talked with the Federal Bureau of Prisons, and they have resisted that. I mean, Frank Wolf has introduced legislation.

Ms. PERRY. No, this is not the Wolf bill.

Mr. HUGHES. It has been referred to this committee. In any conversations I have had with the Federal Prison Industries' officials, they have resisted that approach. So, I find that—well, I see some heads shaking. I find it very interesting. Because when the Federal Prison Industries has a proposal, they want to submit a serious one, they usually know where to find me or others to make the proposal, and they have never done that—never done that. So, I find that very hard to understand.

I will move on to another witness and come back to you. You have obviously one of the viruses that are going around. We all have them, and you would not want to be left out.

Mr. Benjamin, would you be willing to agree that the more inmates, the more work is needed, and that also has to be taken into consideration?

Mr. BENJAMIN. The more inmates, the more work that is needed? Oh, most definitely, sir. The more inmates you have, you have to keep them busy. I am a big advocate of the fact that keeping inmates occupied is a viable prison management tool, and I am not a criminologist, but it just would seem logical to the individual that that would be the case.

Mr. HUGHES. Sure. I think some of the suggestions you make about mandatory minimums, and the fact that we really do not pay much attention to what we are doing, and the impact are correct. We just think that all of a sudden we are going to be able to manage prison problems right on target. To try to address that, I have asked the Federal Bureau of Prisons to provide me with impact statements so that when bills are proposed, or amendments are offered, we can debate, as part of that, what the ramifications of a particular amendment are, such as federalizing all handgun viola-

tions around the country, and the revolutionary way in which we would change the Federal courts, and the Federal Prisons, if that became the law. So, I think that that is right on target.

Let me ask you, what do you think of the idea that we would perhaps move to a minimum wage system, as part of the effort to look for other markets, maybe offshore, to deal with some of the concerns, legitimate concerns, raised by, for instance, organized labor, which basically undercuts the arguments we make about slave labor around the world, and the impact it has on our private sector? What do you think of moving in that direction? It would obviously mean policy changes, because we have put Federal Prison Industries in sort of a straitjacket, by the manner in which we mandate the way they must operate.

Mr. BENJAMIN. A couple of things. One. My industry supports the minimum wage approach. Why? Well, 40 percent of my industry is unionized. Those workers tell us, on a regular basis, that they feel that Federal Prison Industries has an unfair advantage, simply because they can pay people below market. I think that argument would dissipate itself, if you established a minimum wage floor.

Mr. HUGHES. And then you have the argument, well, you are paying minimum wage, but why don't they pay the prevailing wage?

Mr. BENJAMIN. Well, that is also another argument that we have to deal with too. Because there is a group of our members that also suggest that FPI ought to compete like any other Federal contractor, and they ought to have the same burdens and the same wage scales to deal with.

Now, to a certain extent, what happens—in an industry like mine, it is so heavily competitive—is, as FPI has a superpreference, and sets a market price for comparable goods, you have a danger of that becoming a reference price for all comparable Federal goods, and therefore, boosting the cost that many Federal agencies will have to pay for their goods. So, I think a proposal like that would need some study from an economist, who could look at the "boosting" effect that that would have.

You know, we have done a study of FPI's entry into the envelope manufacturing industry. We did it as part of the process of notice and comment that went on in 1990 between our industry and the Federal Prison Industries. Based on our engineering analysis of their facility, how much business they would take, and how much machinery would be required to support that business, there would be no way, with prevailing rates, for Federal Prison Industries to make any money within the first 3 years of their operations, right now.

Now, that is something that is unique, Mr. Chairman, to labor-intensive industries that are small-niche industries like my own. Remember that we are dealing with the $2.5 billion a year industry, only 205 domestic producers. The average cost of equipment is approximately $700,000. So, to put an envelope facility together, you are talking about a cost, per inmate, before incarceration, of $65,076.92. That is before incarceration costs. It is going to be very, very difficult for UNICOR to break even with their entry into this envelope manufacturing field. If you add a minimum wage or prevailing wage argument back on that, what you inevitably do is—

have to increase costs to break even; they have to raise the market price. When you raise the market price, you will have the tendency to set prevailing price for other types of Federal goods, because the procurement officers are going to look over here and say, you know, that is a prevailing price. What happens is we end up paying more for our goods basically.

So, again, basically, we have to be very very careful with that approach.

Mr. HUGHES. Well, I think you have made a very valid point. Frankly, the primary purpose is rehabilitation, and to keep inmates busy. For that reason, we are looking for labor-intensive initiatives. We purposely designed the workplace so that it is, in many instances, inefficient. Now, there is a very simple way to deal with that. We could, as the Federal Government, subsidize basically the prison industry system. I suspect that your members would probably have a problem with that too.

Mr. BENJAMIN. Well, it costs us one way or another, Mr. Chairman. We cannot get around that. You are either going to pay it out in more taxes, or lost business.

Mr. HUGHES. We have established that—you know, that there is no easy answer.

Ms. Kinter, you indicate in your recommendations a need for a reform of the waiver process. Frankly, I think you alluded to some reporting and handling aspects of it. Can you be a little more specific?

Ms. KINTER. I believe, in the Deloitte & Touche report, and the handling of waivers has also been addressed by FPI during some of our work group meetings. There were indications that FPI should streamline their waiver handling procedures. Also waivers for, I believe, if the cost is under $1,000, waivers would not be required for FPI products. If the cost for procurement activity was under $1,000, then they would have a 30-day turnaround period, whereby they had to answer the waiver from the procurement officer. It was more of a streamlining and internal-type operation.

Mr. HUGHES. OK. The gentleman from New Mexico.

Mr. SCHIFF. I thank the Chair. I believe the witnesses were here during my exchange with the previous panel. At that time I went to what I trust was the crux of the matter, from their point of view—and that is a request to document that the main purpose of Prison Industries, which brings us all here, and which raises some antagonisms that can be expected, is really justified. They referred me to some material that I plan to study. So, I hope it is with that in mind, you understand, that I am looking for the bottom line from this panel. Specifically, I am looking for what is the basic objection here—basic problem? Prison Industries sells currently only to the Federal Government and Federal agencies; is that correct? We are not putting—we are not opening store fronts that say Prison Industries. OK.

Is there any suggestion that the Federal Government is paying too high a price for what it purchases from Prison Industries—is the suggestion that private enterprise could sell cheaper to the Federal agencies than Prison Industries can sell?

Mr. BENJAMIN. Yes, sir.

Mr. SCHIFF. I am sorry I cannot get nods on the record.

Mr. BENJAMIN. We think one easy way to test it is look for comparable purchases in the private sector. Now, you do not have any good basis to compare that in envelopes because Federal Prison Industries is not manufacturing envelopes yet. Based on the engineering studies that we have done, you are just going to inevitably have to pay a higher price for the product, simply because you have more cost push. 42 percent of your cost of producing an envelope is paper. Now, you can buy it at government rate for that paper, and you can buy through the GSA, with their appropriate discounts for the tonnages that they pay, and then you have got machine costs, and labor costs, and on top of that, a variety of different costs. All of a sudden you have a price floor that is higher than the prevailing floor in industry. Because industry has been doing this for a great number of years, their equipment is older, it is fully depreciated, the work force is much more efficient, per se, simply because they have been doing it longer, so they do have an efficiency advantage.

Mr. SCHIFF. So, even though Federal Prison Industries does not pay the prevailing wage, does not pay Social Security, and does not pay a number of the benefits directly that private industry pays, you still maintain that private industry can provide these same products for less?

Mr. BENJAMIN. Yes, sir. We feel we can.

Ms. PERRY. The Department of Defense Inspector General did a report on cable and wiring harnesses about 2 years ago, which indicated that, in fact, FPI was overcharging for these. We found numerous instances within our industry where a job has actually gone out for bid, which does not happen too often, where the price has been higher, and would be willing to provide those for the record.

Mr. SCHIFF. I would be very much interested in this information. This is the reason. I am trying to determine whether this panel representing private enterprise—and I can accept any message, as long as I am clear on what it is. Is the message we are especially interested because we think the Federal Government is overpaying, versus what we can provide, or is the message we think we have some inherent right to Federal business, and we should not have to compete with Prison Industries, because then, even if it is cheaper for the Federal Government, our industry loses a large share of a valuable market? If I understand you correctly, you are at least maintaining to me here today that we think no, we think that, of course, it would benefit our industry. That is a given. You are saying that the Federal Government would benefit—the agencies would benefit because they would get a product at a cheaper price if they bought it from private enterprise?

Mr. BENJAMIN. That is my testimony, sir. I just believe—and there is an easy way to test it. Just eliminate superpreference for envelopes, and let the lowest market price, best product prevail. That is the easy way to test whether or not that works.

Mr. SCHIFF. Well, if you believe that you have the lower market price now, for the reasons you gave, why is there an issue of what Federal prisoners are paid or not paid? You are saying you are already able to undercut the price of prison industries, based on these——

Mr. BENJAMIN. It is an issue of fairness with those members of labor organizations that are our members, sir. It is not an issue related to the economics.

Mr. SCHIFF. OK. All right. I see now. Thank you. All right. Well, then, as I did with the last panel, I would be very interested in additional information, because I came to this hearing presupposing the other. I am presupposing that—and understandably, a valuable market was being reduced in its access to private enterprise, but making the basic assumption that the Federal agencies in fact were paying less than they would pay on the market. If that is not correct, I would certainly like to see that information.

Ms. PERRY. Congressman, the approach of our industry is a little different, because we feel that prisoners should not be doing work that should be done by American workers, nor should Prison Industries be harming American business. This is why we are so intent on finding other products and other projects for prisoners to be involved in that, here again, will aid the society that they have harmed, and that will not take jobs away from American workers or American business.

Mr. SCHIFF. That is the second—that is what I was looking for. Stated another way, we should have this business, and the Federal Government should not be supplying itself, is it not?

Ms. PERRY. Yes.

Mr. SCHIFF. OK. As long as we understand each other, that is all right.

Ms. PERRY. Absolutely.

Mr. SCHIFF. That is all right. That is what I was looking for. I understand that argument. If there is evidence further that, in fact, the Federal agencies—to back up, I am not saying that is not a valid argument. I want to make that clear, Ms. Perry.

Ms. PERRY. Well, an example though, on the other side of overpricing. Federal Prison Industries, I guess it is 2 years ago, their sales were $360 million, of which $14 million of that was profit. Now, when we talk about profit within Federal Prison Industries, we are talking about tax dollars that came from other agencies. So, basically, what you have is the Department of Defense, the Department of Agriculture, Social Security Administration, actually subsidizing the creation of new Federal prison factories.

Mr. SCHIFF. These same agencies pay a profit, hopefully, to your members.

Ms. PERRY. Not a big one. Not that big, but yes.

Mr. SCHIFF. Let me conclude. I am sorry. Let me make it very clear what I am looking for. I understand the argument, and it may be a valid argument that, if we let Prison Industries produce something, we take away a part of the free enterprise market. I mean, that is a argument that stands by itself one way or the other. I am looking for evidence, to the extent it exists, of a second argument that in fact private enterprise, even given the disparity in how they are organized, can actually provide these good for less than these agencies are now paying Prison Industries. If that information exists, I would be grateful to receive it.

I yield back, Mr. Chairman. Thank you.

Mr. HUGHES. Just to pick up on one thing you said, Ms. Perry, and that is that you, philosophically, have problems basically with

Federal Prison Industries taking any jobs from Americans. You had three areas that you suggested, recycling being one of them. Well, it just so happens that we do have recycling centers.

Ms. PERRY. Yes.

Mr. HUGHES. Wouldn't they argue that you are taking work away from them? I mean, those are hard-working Americans, that are being paid, in many instances, just above minimum wage. Their hope is that they will capture a larger market, and they can become more efficient. Isn't it a fact that we cannot design a system that will not have some impact?

Ms. PERRY. Well, only 2 percent of the plastic in this country is being recycled. There is obviously great room for expansion.

Mr. HUGHES. Well, part of the problem is that we have not, in many instances, developed markets for recycled goods. That is part of our problem. That is a big part of the problem, as a matter of fact. We do have recycling centers, and there are Americans that work at those recycling centers. There are entrepreneurs that want to see that market grow. Do you have any illusion about what they would say? They would be marching on Washington also, just like others, telling us that it is going to impact their potential market share.

Ms. PERRY. The market for recycled plastics right now is huge, and to the point where companies like Procter & Gamble and Johnson Wax are looking for plastic. They cannot get enough plastic.

Mr. HUGHES. The fact of the matter is that there are entrepreneurs who are trying to get into that market. They would argue, would they not, the same argument you are making on behalf of the furniture manufactures? Wouldn't they make the same argument?

Ms. PERRY. Oh, I am sure.

Mr. HUGHES. I have no doubt about it.

Ms. PERRY. You are talking about a huge market there that is 98 percent untouched.

Mr. HUGHES. I understand your argument there, when you tell me that furniture basically has unfortunately taken a disproportionate hit. I understand that. I have no quarrel with that. We need to do better. When you start to tell me that basically you have problems with Federal Prison Industries because they take away jobs from Americans, what you have done is you have eliminated the universe of products or services we could provide, because you are invariably going to have some impact.

Now, granted, we could reduce that impact, and make sure that we look for growth industries, offshore industries where we are not very competitive, and look for new ways to provide the rehabilitation and the work in the prison industries, but there is going to be some impact. The only way that I think you could address it perhaps would be if we just made up our mind that, as a society, we are going to pay for it. I suspect we will be hearing from you and your members if we did that, by increasing the amount that we spend in trying to keep prisoners busy, and providing skills for them.

I mean, I have some concerns about some of the jobs we are creating, because the policy that we have created now runs counter, I think, to trying to create meaningful employment opportunities

when they are on the outside, because we have created labor-intensive jobs, as I have said earlier, in examining the first panel. Often labor-intensive jobs do not provide the kinds of skills that they are going to need when they go out and get a job.

Ms. PERRY. As an industry that has lost 12 percent of our sales in the last year, training people to be furniture manufacturers—we have enough people on the unemployment line right now.

Mr. HUGHES. Yes. You will get no argument with me about the need to take a look at that, and a whole host of other issues. You have made some good suggestions today. Do not misunderstand me. Let's continue the dialog. We obviously have a serious problem. Nobody would seriously want to argue that we need to close down a prison industry system, because that just invites more problems. There are problems. All of us, not just furniture manufacturers, or paper manufacturers, or recyclers, that is a problem that we all have to face.

All right. Well, thank you very much. The panel has been very helpful to us. We appreciate it. We will continue the dialog to see if we cannot find a better way to run this system.

We are going to start the third panel. I ask them to come forward at this time. We will try to conclude your testimony. I hope that you can be as brief as the previous panel. We will perhaps be able to do that before these votes come.

The final panel today includes Ross Swimmer, Cherokee Nation Industries; John Zalusky, AFL–CIO; Michael Grotefend, Council of Prison Locals; and Charles Sullivan, CURE.

Ross Swimmer is the president and chief executive officer of Cherokee Nation Industries, Inc., a minority-owned business located in Stilwell, OK, and a practicing lawyer. Mr. Swimmer has had an illustrious career, having been the Chief of the Cherokee Nation from 1975 to 1985, and was appointed as the Assistant Secretary of Indian Affairs in the Department of Interior in 1985.

John Zalusky is the head of the AFL–CIO Office of Wages and Industrial Relations, Department of Economic Research, and has worked in that department since 1975. He is an economist by profession, specializing in wage systems, employee ownership programs, and protective labor standards laws.

Mike Grotefend has been the president of the Council of Prison Locals since 1989. He is presently a Bureau of Prisons corrections officer with the Federal Correctional Institution, Oxford, WI. He also has worked in a Federal Prison Industries factory. Mike has testified before the subcommittee on other occasions, and it is good to have him back.

Charles Sullivan is the codirector of CURE, a nonprofit organization that works to support prisoners and prisoner programs in State and Federal prisons. Mr. Sullivan has worked with CURE for over 20 years in Texas, and is codirector of the national office since 1986.

We welcome you today. We have your statements. We have read them. We would like you to summarize so that we can get right to questions.

Why don't we begin with you, Mr. Swimmer? Welcome.

STATEMENT OF ROSS O. SWIMMER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CHEROKEE NATION INDUSTRIES, INC., STILWELL, OK

Mr. SWIMMER. Thank you. I have submitted a statement for the record, and I appreciate the fact that you have read it. I will try to summarize briefly.

My name is Ross Swimmer, I am the president of Cherokee Nation Industries, in Stilwell, OK. It is an Indian community, part of the Cherokee Nation of Oklahoma, the second largest tribe in the United States. Our company has been in business since 1969. We started out as a private-sector company working for Western Electric, RCA, IBM. We, in 1979–1980, moved into military defense work and became a subcontractor to prime contractors, primarily the Boeings, the Voughts, the FMC's, Raytheons, and General Dynamics of the world. We have been in that market for quite some time. Our market niche is wiring cable harness assemblies. We also distribute products to the industry for companies such as Raychem and others.

We have been impacted by Federal Prison Industries by the inability to get additional work from the different depos. Do you need to take a break?

Mr. HUGHES. I would just suspend for a minute. Go ahead, Mr. Swimmer.

Mr. SWIMMER. OK.

Mr. HUGHES. I apologize.

Mr. SWIMMER. The work we do for the prime contractors is then turned over to different Army depos to do the spare part replacement and refurbishment work. We have attempted, in the past, to obtain some of that work and, as my testimony reflects, we generally are turned down, because Federal Prisons has a mandate for—a preference for all of the work. So, we have prisoners doing the identical work that we are doing.

Our labor market is very similar. We are in a situation where we have entry level people that we are trying to employ. They do not have high skills and abilities. Most of them will not have a high school education. They are started at a little above minimum wage, and our average direct labor is probably $5.75 to $6 an hour type work. That is competitive in our particular industry.

We believe that this is a good way of creating jobs in our area. It allows these people to go to work in very nontechnical areas of assembly kind of work. It is, unfortunately, the same kind of thing that is happening in the prison systems. I guess our concern now is that, as our company declines, and it somewhat parallels the decline in the defense business, that our attempts to go to military bases and obtain similar type of work to what we are doing is being foreclosed.

If I were to make a recommendation it would simply be that—we have talked about caps and other things—that, sure, a cap on an industry, but, in addition to that, perhaps a cap on any one area—any one base, for instance, even though it is $100 million, or $90 to $100 million business with Federal Prisons, and our industry in wiring cable harness, it absorbs all, 100 percent of the work that is done at Mycom, Tacom, and the different military bases. It

could be that perhaps there is some kind of a cap on that, so that at least we get an opportunity at quoting some of that work.

The second thing is—and I have been meeting with the Brookings group, as a representative of our industry, and I understand that we are not going to solve this problem by saying no. I firmly believe that there are, as was testified to earlier, there are other industries that the burden, if you will, could be spread among. I also think that there may be opportunities for engaging in business, whether it is a subcontractor or otherwise, as long as people understand that small, and particularly, small, disadvantaged business are the ones that will take it on the chin more often than not, because that is where our people get their start, in the unskilled labor areas, high-intensive labor markets.

So, I think, to the extent that other solutions are looked for, I have suggested, and would like to continue suggesting that, especially small businesses be involved as part of the solutions, and that, if Federal Prisons goes out and does capture a segment of the market, that it does so in conjunction with small businesses, and that we share in that Federal marketplace, because it is important to us.

Thank you.

Mr. HUGHES. Thank you, Mr. Swimmer.

[The prepared statement of Mr. Swimmer follows:]

PREPARED STATEMENT OF ROSS O. SWIMMER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CHEROKEE NATION INDUSTRIES, INC., STILWELL, OK

My name is Ross O. Swimmer. I am President and Chief Executive Officer of Cherokee Nation Industries, Inc., Stilwell, Oklahoma. Our company was organized in 1969 by the Cherokee Nation to help provide jobs for people in Adair County, Oklahoma. At that time, this area of Oklahoma was considered one of the poorest counties in the United States. We have made progress over the years, although unemployment in our area is still several percentage points higher than the national average.

Cherokee Nation Industries employees 230 people. Our primary business is the manufacture of wire and cable harness assemblies for military prime contractors including such companies as FMC, General Dynamics, Loral Vought, Boeing, and Martin Marietta. Our company has been successful for several reasons, including support from our sole shareholder, the Cherokee Nation, ability to retain earnings to finance growth, a dedicated work force, prime contractor support and an abundance of military work.

In addition to our manufacturing arm, we also are a distributor of value added parts from AMP, Raychem and John Fluke Instruments. Our gross income is divided about three-fourths from manufacturing and one-fourth from distribution.

I am here as a result of this Committee's invitation to testify regarding Federal Prison Industries (FPI). I also serve as a member of the task force directed by The Brookings Institution looking into potential expanded activities of FPI.

There is no question that FPI needs to put prisoners to work in some productive capacity. It is difficult, however, for me to explain to my work force that they may have to be layed off because the work they were doing or could do is being set aside for prisoners. We have many people, mostly women, who put in long hard hours working at unskilled labor rates trying to support families. Most of these workers would actually be receiving more resources for support if they did not work, but they have a strong work ethic and are very proud of what they do. It is a way of life for them not just a job. They just don't understand why prisoners get the first consideration for jobs they could be doing.

My reaction is to be positive and search for ways to create employment in the prisons. I think no one industry should be heavily impacted. All industries should share the burden of federal prisoners as well as help create job opportunities for people being released from prison. The federal government purchases billions of dollars of goods every year. As of now Prison Industries has focused on electronics, furniture, printing and textiles. Surely these industries have given enough. Food and

beverage, recycling, automotive, modular housing components, hardware, data processing and other office communications are but a few industries that might provide job opportunities for prisoners without further impacting the four major industries now providing jobs.

As you are aware, the military procurement budget is shrinking rapidly. As a result, our sales of manufactured product reached 25 million dollars with 325 employees in 1988, and this year we will sell 12 million dollars of products using 230 employees. To maintain our capability and provide employment, we recently elected to seek direct federal work (as distinguished from subcontracting from a prime contractor). We are now certified as an SBA 8(a) contractor and should be able to secure work being out-sourced from military procurement centers.

The following is a sample of the kind of responses we have received as our marketing people visited the supply centers: at the Defense General Supply Center, Richmond, VA, "—we do buy cables, but UNICOR (FPI) gets first chance at all bids that are considered competitive." At U.S. Army Communications and Electronics Command, Ft. Monmouth, N.J., "—few buys here, Federal Prisons must give us a waiver before we can go out competitive." They were not at all interested in talking about the 8(a) program; at the U.S. Army Armament, Munitions and Chemical Command, Rock Island, IL, the comment was, "—anything that has been set aside for Small Business in the past will not be set aside for 8(a). Federal Prisons gets first shot at everything, it's the law"; at the U.S. Army Aviation Systems Command, St. Louis, MO, "Federal Prisons gets first crack at all competitive bids." Approximately 25 government purchasing agencies have been contacted by our internal marketing people. All have cautioned that the amount of business that a cable and wiring harness company can expect to receive is limited, because of the law requiring them to go to Federal Prisons first.

In other words, the very same cables we build for our prime contractors to go on tanks, trucks, rockets, etc., are also being built for army depots for spare parts and replacements but we don't have much of a chance to do this work. I am concerned that small, disadvantaged, minority owned and operated businesses are going to fail if this market gets any more saturated by FPI.

To help mitigate the problem of losing work to FPI, we decided to help support their effort by being a value added supplier of parts. If FPI were to manufacture the harnesses, they still needed wire, contacts and connectors. We have people now assembling connectors and packaging shrink sleeving for FPI. These total sales to Unicor in 1991 were $288,351. Our sales dropped in 1992 to $118,968. The reason we have been given for this 50% drop in distribution was the consolidation of Unicor purchasing activity in Washington, D.C. We will be meeting with Unicor officials to determine their needs and hopefully do more business with them this year. This is an example of FPI and small businesses working together and we hope FPI will continue using small business suppliers. As for new business opportunities for Unicor (FPI), I would not oppose expansion, even in our industry, as long as it is not exclusive. I also suggest that a limited percentage of any work be allowed to FPI and any greater percentage be allowed only if small business is included in part of the work, either as a subcontractor or supplier to FPI. In other words, if FPI is going to manufacture our cables, at least require FPI to seek out small business suppliers for their parts and supplies. We do employ 23 people in our distributorship and we would like to be considered for this kind of business.

I recognize the problem faced by FPI and the rest of society. We all must work together to reach a solution, but we must be careful so that no one industry is impacted too greatly by the solution. We at Cherokee Nation Industries will continue to work with FPI to find solutions and I certainly welcome the attention of this Committee on this problem.

Mr. HUGHES. Mr. Sullivan.

STATEMENT OF CHARLES SULLIVAN, NATIONAL DIRECTOR, CITIZENS UNITED FOR REHABILITATION OF ERRANTS (CURE)

Mr. SULLIVAN. Mr. Chairman, I would like to say I have submitted my statement. I will just briefly summarize.

I think, first of all, that we are really talking about apples and oranges in today's hearing. We are talking about the present system of UNICOR, and then we are talking about Congressman Wolf's bill, or the idea of a radical new solution. When I say radical, I am talking about to the very roots of what UNICOR should

move into—that is to bring businesses behind the walls—to make the small businesses part of the action. So, I would like to talk about UNICOR as it now stands, and certainly there are some very very good things in regard to UNICOR, and in regard to providing real work to prisoners, but where we feel that UNICOR is weak is in real jobs. We feel that people are not being plugged into the employable skills that are out there. In other words, there has got to be employment counselors, on the road, et cetera, from those regional offices that UNICOR has. Also, I think that we ought to look at the precedent that we have with affirmative action that perhaps even people as high as President Clinton could approach major corporations and say we want so many slots for our topnotch UNICOR people. I think we ought to begin the first 6 months that a person is released. That is where UNICOR should be plugging that person into a very very good job. Most of them come out in dead-end jobs.

Now, in regard to the other side—in regard to the Wolf bill of prison-based business, we would certainly support a minimum wage. We feel very strongly that prisoners should pay appropriate expenses, room and board, et cetera. However, I would like to say when a person leaves prison, for the work that they have done in prison—now, this is work that they should be paid for, they should have in their account, $5,000 in today's world. If they do not have a family, and if they are released here in Washington, DC, $5,000 is not a lot of money for them to make it. Most of the places today, if you look at the list—the directory where prisoners are being released, they are homeless shelters. So, if we are talking about somebody finding a good job, having the proper clothes to go in and apply, and then having all of the things against him in their resume. $5,000 is not a lot of money. That payment could be stretched out over a 6-month period for finding employment.

Second, let me just say too, that just like small business should be going behind the walls, I think the unions also should be going behind the walls.

Mr. HUGHES. You do not mean that literally?

[Laughter.]

Mr. SULLIVAN. I am talking about organizing the prisons. If you look at the roots of the unions, getting to the grassroots people is their mandate. I am talking about associate memberships. I realize they cannot get involved in strikes, but, right now, within the unions, there are associate memberships, where you actually receive basic information. In other words, get the unions as part of the action, just like the small businesses as part of the action.

Let me say too, I think there is still resistance, maybe not in the central office of the Federal Bureau of Prisons, but out there with the wardens. There is still resistance to people who are not on their payroll. In other words, the private sector and add the union going in there, behind the walls, then the wardens are going to be very reluctant to accept Wolf's bill. So, I think that has not been brought out. However, I think, if everybody gives a little on this, I think we can form a coalition where everybody is part of the action and is able to basically support Frank Wolf's bill.

Mr. HUGHES. OK. Thank you very much.

[The prepared statement of Mr. Sullivan follows:]

PREPARED STATEMENT OF CHARLES SULLIVAN, NATIONAL DIRECTOR, CITIZENS UNITED FOR REHABILITATION OF ERRANTS (CURE)

GRADING UNICOR REHABILITATION & PRISON-BASED BUSINESSES

As a organization committed to rehabilitation, I would like to focus my remarks on the present UNICOR operation and then suggest a radical new direction for UNICOR.

Rehabilitation Equals the Three Rs

UNICOR states that "its primary mission is to train educate and employ inmates" or "the productive employment of inmates." In other words, rehabilitation.

In my opinion, whether prisoners are being rehabilitated or not depends on three elements—real work, and real wages that lead to real jobs when they are released.

Real Work

Of these three elements, "real work" seems to be UNICOR's best effort. However, prisoners could be working in more relevant occupations. For example, although I applaud UNICOR for expanding into services, they are still in the pre-information era. Perhaps, a faster pace for service expansion would happen if the name "Federal Prison Industries" was changed to "Federal Prison Industries and Services".

Also, research on the "free world" jobs of the future must become a top priority with UNICOR. Where will the new jobs be in the year 2000? For example, because of the aging "baby-boomers", UNICOR should be preparing prisoners to enter the health-care field where thousands of new jobs are being created.

Perhaps UNICOR is doing this and, as I mentioned, the quality of their inmate work is somewhat impressive.

And UNICOR is certainly way ahead of other prison systems' work programs. CURE started in Texas and for years, we criticized the Texas prison system for having its prisoners pick cotton and justifying this as rehabilitative because they learned good work habits.

As to quantity or number, one-third of federal prisoners participating in UNICOR is impressive too. However, why are not the other two-thirds of the prisoners involved in UNICOR?

Real Wages

In order for rehabilitation to be successful, there must a perception by the prisoner that "the system" is fair. When prisoners are paid "slave-like" wages, they cannot help but see the system as exploitive.

Also, real wages given to inmates by UNICOR will prepare them for the real world.

Finally, although CURE is not adverse to prisoners paying appropriate expenses with these real wages, there must be a "safety net" of funds in the prisoner's bank account when he or she is released from prison. In today's world, I would unequivocably state that this, at a minimum, should be $5,000.

Real Jobs

Besides this most important rehabilitative tool of adequate "gate" or release money, there must be a real job immediately awaiting the prisoner.

As I stated earlier, we criticized the Texas prison system. However, I find myself more and more agreeing with one of its well-known directors, the late Dr. George Beto, that the most important time to reduce the possibility of recidivism is the first six months after a prisoner is released.

Of the three Rs of real work, real wages and real jobs, UNICOR has neglected by far this final "R" of real jobs in the free world for its "graduates".

A few weeks ago, we had a former prisoner walk into our office who had served 14 years in the Federal Prison System. Most of this time, he had worked in UNICOR. Also, due to Pell Grants (thank God, most prisoners can still apply for them!), this particular prisoner had acquired an undergraduate degree and had begun work on a Master's. And yet, the only work he could find was minimum wage in a "deadend" job.

Why couldn't UNICOR at its regional offices have employment specialists constantly "on the road" finding good jobs for its workers? This is even more a necessity as we phase out parole on the federal level and parole officers are no longer there to assist in finding employment.

Also, why couldn't prison officials and other leaders in the executive branch including President Clinton lobby major corporations to set aside job slots for top-notch UNICOR workers such as my ex-prisoner friend?

Initially, these corporate leaders might think the public would not support the hiring of ex-prisoners. However, I believe, if the issue is framed correctly, that the public would support this corporation "for doing something about reducing crime".

Prison-based Businesses

The corporate model for hiring ex-prisoners is Best Western Hotels and Motels which has "success stories" of former inmates being promoted numerous times. However, Best Western hired these individuals while they were prisoners and I would like to conclude my testimony with a strong suggestion that UNICOR *actively recruit* (e.g. through tax and grant incentives) the private sector to set up "behind the walls".

House Bill 703 by Wolf has been introduced and it would have only those U.S. businesses qualify to hire prisoners that now produce goods offshore. Also, union opposition should be lessened because this will bring jobs back to this country.

Finally, by giving business "a piece of the action", everybody wins! This, by the way, includes unions who could condition their support for these prison-based businesses by prisoner workers becoming associate union members.

In summary, if the primary purpose of UNICOR is to rehabilitate prisoners, there is no better way than through prison-based businesses.

In fact, I'll conclude my testimony with a statement from Fred Braun who has operated two successful prison-based businesses. Seriously more than facetiously, he says that "if we really want to punish these prisoners, we should make them taxpayers!"

Mr. HUGHES. Mr. Zalusky, before we take you into custody, we are going to recess for about half an hour. We are going to have to do it. We will come back.

We will recess for a half hour. I apologize for this delay, but we have a series of votes. It is going to take some time before we finish up. So, we will stand in recess for about a half hour.

[Recess.]

Mr. HUGHES. The subcommittee will come to order. I, again, apologize for the interruption. We have apparently another window of maybe a half an hour or so. So, we can proceed.

Mr. Zalusky, welcome.

STATEMENT OF JOHN L. ZALUSKY, ECONOMIST, ON BEHALF OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL–CIO), AND HEAD OF THE OFFICE OF WAGES AND INDUSTRIAL RELATIONS, ECONOMIC RESEARCH DEPARTMENT, AFL–CIO

Mr. ZALUSKY. Thank you very much, Mr. Chairman. We appreciate the opportunity of being here.

I have been interested in the issue of prison labor since the mid-1970's. Of course, the AFL–CIO has been concerned about this since 1881, 110 years.

We in the AFL–CIO do not oppose convict labor. We see it as a useful device for controlling prisoners. We, secondly, see it as a useful way of rehabilitation. However, we do not always see it working that way. That is one of our problems with it.

We are also very concerned when the public asks the poorest of the free labor force to pay the price for all of society's, through the use of convict labor. As an economist, there are all kinds of different ways that one could calculate what a private sector job is worth. I used the employment cost index, and came up with a value of about $45,000 for each job that we lose on the outside, that is taken by a convict.

That brings me to another point. We in the labor movement do not address the job losses in terms of large numbers and statistics.

Forty-five thousand people being employed as convicts is a rather meaningless observation to us. We have to represent Susan who lost her job outside of Boston because Westinghouse closed down a wire cord set operation. We represent the printers who are out of work in Washington, DC. I have seen these jobs being done today in UNICOR at FCI Petersburg, a Virginia prison. There are unemployed people in the free labor force who would like the jobs performed by convicts right now.

I would like to make an additional point on this unemployment question. If one loses a job in many other walks of life, particularly if it is due to foreign competition, those who are out of work can get trade adjustment assistance. A worker who loses a job because of convict labor gets nothing.

I have heard and seen a lot of attention focused on private small business interests, as though partnerships with prisons, and using prisoners, and subcontracting is somehow going to help out small businesses. However, that is not going to do a darn thing for the free laborer who lost a job on the outside.

We would like to see prisoners paid prevailing wages, not the minimum wage. We ask this for two reasons. We think it makes convicts a little bit less competitive, and we think it makes society aware of what it is costing to employ convict labor. Second, we think that paying people 23 cents an hour to a dollar an hour, is an absurd proposition that sends exactly the wrong message to a convict who is going to get out. It teaches them that work is exploitative, not that it is rehabilitative or that it is productive.

We also suggest that wages being paid to convicts be used to teach—that is that they pay the price for what they have done from those wages by paying taxes, pay a fair share for their keep, pay into a victim restitution fund, pay child care payments, if appropriate, and assist in the support of their dependents on public assistance and so on. In short, pay the costs that others pay. That is the way they will learn what work is all about.

There should also be enough money left over so there is a reward for the better worker, and a lesser reward for the less active worker. These should be meaningful, as I said in our prepared statement—a very meaningful reward system.

Labor has not had an effective voice in the UNICOR system nor has been on the Board of Directors for some time now.

Even so, we think there is a better way of running UNICOR than what we have seen so far.

We have in UNICOR an activity—an enterprise that is not really a business, but tries to pretend it is a business. And it does so in a very autocratic way. I will give you an example. It is not UNICOR, but it is a prison industry for self-use activity in the State of Washington. The only major employer in the city of Olympia, WA, is the government. The State has had serious need to remove asbestos from government buildings. The prison administrators had people they wanted to train and people they wanted to employ, and who had to be employed on government projects. The building trades wanted to get on with the rehab work of those buildings, but the State did not have the money. They worked it out together. The convicts are roughly one-third of the work force and free labor two-thirds. The contractors are private sector con-

tractors doing the work, and union members are training the convicts so they can get good jobs when they come out. That I think is an example of a better way of dealing with the prison industry problem. That is working it out at the point of impact. We have seen it work elsewhere.

So, if you make the people at the job site a partner, or a part of the process, I think it is manageable. If it comes down as a surprise it is a much larger problem. If free workers suddenly learn they are going to lose their job because a convict will be doing the work, there is going to be anger.

We do not want to see any prisoner competition in the private sector—not a partnership, and not an activity competing with the free market in another country, or anything of the kind. We find that to be a very badly advised idea for a variety of reasons.

Mr. HUGHES. Why don't you furnish it to us? Why don't you tell us why?

Mr. ZALUSKY. OK.

Mr. HUGHES. You want a prevailing wage, but you do not want competition. Tell us why.

Mr. ZALUSKY. Well, we do not want to have convicts competing with the overseas countries because we do not know what the reactions are going to be. If we start using convicts to take back the product market they won fair and square other nations are bound to react. Let's suppose, for example, that we decide to use convicts to produce electronics, VCR's, in Petersburg Prison. We do that because we believe the work has already gone to Mexico. Suddenly that VCR is produced by convict labor in the K-Mart store. I suggest to you that the "60-Minutes" show that appeared with regard to the work going to El Salvador, and then being sold at K-Mart would be just about the same. To our members who lost their jobs with Zenith in Missouri I would react in the same way as the clothing workers in Tennessee. It would not make very much difference whether it was clothing being produced in El Salvador, or it is a VCR. They lost their job and someone else has the work. In this case it would be the convict who is doing it in Petersburg, VA; Federal prison paid 23 cents an hour. They would be bloody angry about it, and it would be unfair competition for them.

I think the other part of the problem is that these other countries feel that they have won this market fair and square, without any form of subsidies or anything else. They did it in their own economies. We retaliated against the French when they subsidize their food oils. My hunch is that they might retaliate against us for subsidizing our own markets with convict labor. And they would do so by perhaps limiting the import of our automobiles or something of that kind, or retaliate in kind by using convicts to compete with our goods.

I think before Congress considers opening the can of worms, it should discuss this with, not only our U.S. Trade Representatives, but certainly the trade attachés from the other embassies, and probably some trade union people from other countries. I think you will get an idea of what kind of a reaction you would get if they were competing with the United States.

It is exactly the same sort of problem we raised with China. We bar imports of convict made goods into the United States. Granted,

72-576 O - 94 - 4

it is not well-enforced, but we do bar it. The bar is found in the Trade Act of 1930. To say to other institutions you cannot import your convict-made goods in here, but we can compete against your free-made goods at K-Mart, is simply a wrong-headed idea.

I think I would like to conclude with just making the observation that we do support the idea of some contract labor being used. I think it should be minimal and it should be in the context of rehabilitation. But even this has limitations. I have seen convicts working on UNICOR projects who have no prospect of ever getting out of prison. That is not rehabilitation it is control. I think convict labor should be used parsimoniously, where there is a rehabilitative aspect to it, and additionally, where it is a meaningful element of control.

As we deal with the convict labor issue, I feel like we are at that Mississippi Delta, watching all of the stuff flowing down on us. I think, as a society, we need to take a much harder look at where this trouble is coming in and try to find ways of preventing people from going to jail in the first place.

I think—and I am sure the AFL–CIO supports a much broader view of the whole issue of the incarceration. The number of people we are putting into jail today, I have heard described, is increasing at seven times our population growth rate, and that at this rate, by the year 2020, we will have more people incarcerated than we have on the outside. I think that this serious problem needs much more attention at the source. What are we doing to bring so many people in?

I thank you, Congressman.

Mr. HUGHES. Thank you very much.

[The prepared statement of Mr. Zalusky follows:]

PREPARED STATEMENT OF JOHN L. ZALUSKY, ECONOMIST, ON BEHALF OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL-CIO), AND HEAD OF THE OFFICE OF WAGES AND INDUSTRIAL RELATIONS, ECONOMIC RESEARCH DEPARTMENT, AFL-CIO

Mr. Chairman, the AFL–CIO appreciates this opportunity to testify on our support, problems and concerns with UNICOR—Federal Prisons Industries.

At the outset we want to make it clear that the AFL–CIO does not oppose the employment of convicts, be they held in federal, state or local institutions. We support the concept of rehabilitation through paid work. However, free labor should not be expected to give up their jobs directly or indirectly so convicts can work.

There are now 16.4 million free Americans who need jobs, 8.9 million unemployed, another 6.4 million working part time and wanting full time work, and another 1.1 million workers so discouraged they have stopped looking for work. The private sector needs jobs. Each free worker without a job, because of convict labor, costs the United States economy conservatively $45,000 [1] per year in lost production, and increased public support costs. When Congress considers the expansion of convict labor as a cost effective means of prisoner rehabilitation and control, it must also consider the cost of jobs lost in the private sector. However, the AFL–CIO carries the concern about job loss a step further.

The AFL–CIO is charged with representing each worker who has lost a job: it may be a woman who lost her job in a Westinghouse plant that made cord sets, or the apprentice printer who is out of work in Washington. I have seen this work per-

[1] Hourly private sector goods producing blue collar workers receive total compensation of $17.22/hr, or $35,818/year assuming a 40 week. [Bureau of Labor Statistics, Employer Costs for Employee Compensation, March 1992, Table 9]. When these workers are no longer working the community loses the circulation of their income and they shift from income producers to public assistance users. A conservative estimate of a private sector job lost to a convict would be in the area of $45,000 per year.

formed in UNICOR and I know there are unemployed union members in the free market who would like the jobs.

To the AFL–CIO, the fact and argument that UNICOR employed only 14,400 convicts in 1991 and expects to employ only 24,000 convicts by 1999 is sophism. We must represent the interests of each member whose job is at risk, not statistics. We are also aware the UNICOR is a small part of prison labor, there are convicts on loan to other agencies, and there is also other non-UNICOR work performed. Additionally, UNICOR activity is often emulated by state and local institutions, and they have hundreds of thousands of inmates to employ.

The AFL–CIO hears frequently from our affiliated unions whose members are at risk because of prison labor. They describe work they could have had if it had not been given to convicts, and they describe jobs actually lost. When this happens there is too little done to help the displaced worker. There are no extended unemployment benefits, relocation benefits and retraining benefits. When a convict takes a free workers job, the free worker has to pay a very big price for society's failures, and it's not fair.

Nevertheless, the AFL–CIO supports the concept that some convicts should be employed and we offer the following suggestions and comments:

UNICOR is only one cost effective way of using a convict's time. The AFL–CIO is interested in working with the Federal Bureau of Prisons, UNICOR, and other organizations looking for other effective ways of inmate control, and rehabilitation.

PAT PREVAILING WAGES

When convicts work they should be paid the prevailing wage for similar work on the outside. This is important beyond the obvious labor market considerations. Fair wages are an important part of learning a work ethic. If work in prison is to be rehabilitative, rather than exploitative, then convicts should experience the real rewards and responsibilities of work. Basic to work is a fair wage. The non-UNICOR prison wages paid now are absurd—only 11 to 23 cents per hour. No wonder UNICOR is cost effective and prisoners are on a waiting list for UNICOR jobs. UNICOR pays higher wages than other convict labor in non-UNICOR operations but they are still serf wages. UNICOR wages start at 23 cents per hour with 4 grades to a top wage of $1.10 per hour.

Real free market wages for like work should be paid to prison labor. From these wages, convicts should pay what other workers have to pay: taxes, a fair charge for their keep, pay into a victim restitution fund, child care payments if appropriate, assist with the support of dependents on public assistance and so on. The remaining money should be available to the worker as a reward for hard work. There could be a mandatory savings plan usable for gate money as convicts leave prison to rejoin the free labor force. However it is worked out, the convict should receive a realistic monetary reward for work, not slave wages.

One of the often stated purposes of UNICOR and other prison industry programs is to provide a work experience for convicts to aid in rehabilitation. Paying ridiculously low wages sends precisely the wrong message.

UNION ROLE

Labor must have an effective and direct influence on what kinds of work convicts do. This should take place in two ways, on the UNICOR Board of Directors, and in a direct relationship at the point of work impact, the place where prison labor affects free labor. If you have this labor and business input the employment of convicts should take place with little or no adverse impact.

For example UNICOR, at the Petersburg Virginia Correctional Facility, is repairing explosion proof doors and fork trucks from U.S. Navy ships. The UNICOR representative at Petersburg told me that they had a working relationship with the management and the unions at these shipyards concerning the work the convicts would do. Although the shipyard union representatives I talked with knew nothing of this arrangement, I believe it has merit.

This approach is now going to be used where convicts are employed outside UNICOR, with the Veterans Administration and on the Park Service properties. The intention is that UNICOR and the agency that will be using the convicts will work out arrangements with the on-site local union. This kind of relationship should operate to avoid or at least, to minimize any adverse job effects. The point is to make sure there is a regular procedure for working together at the level and place where any adverse impact is likely to occur.

This approach has worked at the level of the UNICOR Board of Directors. In 1952, when William Green, President of the American Federation of Labor, served

on the Board of Directors of UNICOR, a serious loss of jobs in the shoe industry was averted when UNICOR modified its production of Navy shoe lasts.

As we testify today, and for a number of years, the Labor seat on the Board of Directors of UNICOR has not been filled, although the President of the AFL–CIO has suggested names on several occasions.

UNICOR AUTHORITY

UNICOR and its Board of Directors now decide, with input from interested parties, on new product lines, and federal market penetration. There are better ways of reaching decisions, decisions more likely to be shared by the interested parties. The way it stands UNICOR has too much unilateral power.

The AFL–CIO recommends and has suggested an approach similar to the mediated regulation procedure provided for in the Negotiated Rulemaking Act of 1990. Using a third party to help all the interested parties reach a decision on the products and market penetration of UNICOR is not very business like, but UNICOR is not the usual business and an autocratic decision is bound to be objectionable.

PRISONER COMPETITION

The AFL–CIO's position is that Federal Prison Industries must not compete in the free market. UNICOR is, in fact, a government owned slave labor force[2] that does not pay market wages and benefits, nor does it pay the normal operating costs of other businesses. It would be exceedingly unfair to have UNICOR competing with private business and free labor in the private sector.

When the A.F. of L. was formed, prison labor was used in the private sector to replace the slave work force lost when the slaves were freed. The founding convention of the American Federation of Labor in 1881 issued the statement describing convict labor as "a species of slavery, degrading to the criminal, demoralizing to the honest manufacturer, and causing paupers of free labor." The phrase "a species of slavery," stems from the fact that the Thirteenth Amendment to the Constitution emancipated all slaves except convicts.

Over the next 50 years and after many scandals, an understanding evolved to the effect that prison labor would be used only for government needs, the "self-use" concept. It was and is a fair compromise between the government's need to work convicts as a cost effective means of prisoner control and rehabilitation, within a free market economy. But there is more to this than historical perspective.

The AFL–CIO is again reliving the scandals of the past with the private sector's use of convict labor. Although this experience is not UNICOR behavior, it is instructive. Additionally, it has all occurred under the Justice Department's, Bureau of Justice Assistance, certification of state programs, and was later white washed by the Department of Labor in its report to Congress under the Crime Control Act of 1990 (see attached letter to Thomas S. Foley, Speaker of the House, dated August 13, 1991.)

Under these private sector federally certified state programs, convicts have been used for strike breaking,[3] taking work while free labor is being laid off,[4] and simple low wage competition.[5] There have been many direct violations of the State Prison Industry Enhancement (PIE) certification programs. Low wage competition and causing workers to be laid off are direct violations. Although complaints were filed, not one state lost its certification, and Congress increased state programs. The AFL–CIO finds this sufficient experience to justify opposition to any new private sector expansion of Federal Prison Industries.

---

[2] Constitution of the United States of America, Amendment 13, Section 1. Slavery prohibited. Neither slavery nor involuntary servitude, except as a Punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

[3] When the TWA flight attendants were on strike, non-union reservation clerks replaced the attendants, and they in turn were replaced by increasing the number of convict reservation clerks employed through the California Youth Correction Authority.

[4] In 1991 when AT&T was laying off telephone operators it contracted with Unibase to do telephone solicitations who in turn contracted with the Colorado State Arkansas Valley Correctional Facility to make telephone solicitations. The State was paid $1,000 per month for the use of its facilities and the convicts averaged $2.00 per day.

[5] TWA continues competing in the same airline markets and labor markets as Northwest Airlines using 64 prisoners in the California Youth Authority. The prisoners are paid $4.82 per hour while the reservation clerks at Northwest are paid a starting wage of $10.02 and a top $17.10 per hour excluding shift and other wage differentials and fringe benefits.

NO ALTERNATIVE TO "OFFSHORE WORK"

A UNICOR "offshore initiative" is recommended in the "Independent Market Study of UNICOR—Federal Prison Industries, Inc" by the Deloitte & Touche. The AFL–CIO opposes this recommendation to use convicts in the free market producing goods lost to over seas competitors. It is an unfair and risky suggestion.

It is risky because it invites an adverse reaction by other countries. That reaction could result in job losses totally unrelated to the work done by convicts. If Congress considers any further investigation of this suggestion it should include the views of the governments and their labor representatives with which the U.S. trades.

One reason this will be seen as unfair by other countries is because the U.S. Trade Act of 1930 bans imports of goods made by convict or forced or indentured labor into the United States.[6] Thus, the use of convicts to compete with the goods other countries import into the U.S. is likely to be seen as hypocritical, an unfair trade practice.

The AFL–CIO is convinced the U.S. took the correct stand with regard to the People's Republic of China over its use of convict labor. Those successful negotiations would be much more complex and much less likely to have been successful if the U.S. were competing with Chinese imports using convict labor.

The AFL–CIO wants the United States to set the best example in the world on human rights standards. The use of convict labor as a pawn in international trade puts this standing in jeopardy. The U.S. may well be challenged by other nations on the use of convict labor under the International Labor Organization's Conventions 29, and 105, and Recommendations 35 and 136. These are the international standards on forced labor and in a global economy the U.S. will be judged by world standards not our own.[7]

In conclusion, the AFL–CIO sees the need for *some* prison labor primarily for control and rehabilitation, and we see UNICOR as one approach. But, some of its policies and approaches are not the best answers. Many of the suggestions for expansion are myopic. Solutions must be found that do not put free labor at risk.

We don't want prison labor competing with free labor in the private sector. The offshore initiative is just plain wrong. And, we want all interested parties, including particularly unions, to have a voice in the determination of government market share of any product or service.

As a nation we must come to grips with why we are sending so many citizens to prison. We cannot afford the growth in the prison population, and the recidivism. The AFL–CIO wants to help with convict training and retraining where appropriate, but we can not help if our members are threatened with the loss of their jobs to convicts.

---

[6] "All goods, wares, and merchandise mined, produced or manufactured wholly or in part in any foreign county by convict labor or/and forced or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, ..." (19 USCS 1307).

[7] International Labour Conventions and Recommendations, 1919–1981, International Labour Organization, Geneva, 1982. The relevant Conventions and Recommendations are: Convention No. 29—Forced Labor or Compulsory Labour; Convention No. 105—The Abolition of Forced Labour; Recommendation No. 35—Indirect Compulsion To Labour; Recommendation No. 136—Special Youth Employment and Training Schemes for Development Purposes.

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

August 13, 1991

The Honorable Thomas S. Foley
Speaker of the House
House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

This letter is in regard to the report of the Secretary of Labor to the U.S. Congress on Compliance by the State Prison Industries Enhancement Projects with Section 1761(c) of Title 18 of the U.S. Code as required by Sec. 2908 of the Crime Control Act of 1990. The report to Congress is not responsive to the clear instruction of the law and wrongly certifies compliance with the 1990 Crime Control Act.

Section 2908 of the Crime Control Act of 1990 (Public Law 101-647: 104 Stat. 4915) requires that the Secretary of Labor "describe in detail the extent and manner of compliance by state Prison Industry Enhancement Certification programs with the requirements set forth in 18 USC 1761(c). "Title 18 USC 1761(c) requires that convict labor "receive wages at a rate which is not less than that paid for work of a similar nature in the locality . . ."

This report to Congress does not study compliance. Rather, the Department of Labor (DOL) simply asked Bureau of Justice Assistance (BJA) what it was doing and restated what it said. If this had been what Congress had wanted, it did not need DOL. It is this kind of regulatory oversight that produces scandals.

This report wrongly states in its conclusions that "Based upon an examination of the data provided to the Department of Labor from the Bureau of Justice Assistance (BJA), Private Sector/Prison Industry Enhancement Certification Program as administered by BJA, has developed adequate mechanisms to promote satisfactory compliance with the statutory requirements of Title 18 USC 1761(c) as amended by the Crime Control Act of 1990 (Public Law 101-647)." There could not have been an "examination of the data provided" by DOL by anyone who knew anything about prevailing wages. There should have been a compliance review. The prevailing wage concept is the basis of Title 18 USC 1761(c).

Since 1984 the AFL-CIO has been making the point that the Bureau of Prisons has not enforced the prevailing wage part of the law. In recent years, we have stressed the example of convicts in California being used as low wage TWA reservation clerks and strike breakers on a numbef of occasions. Yet, we find in attachment 5 at page 5 of the report, the inclusion of California Department of Youth Authority, Trans World Airlines project.

The convicts employed in this project are paid $5.67 per hour in 1990, according to this DOL/BJA report. This wage is half the national prevailing wage for similar work according to the DOL's own BLS study of wages in the airline industry a year earlier (Industry Wage Survey: Certificated Air Carriers, January 1989, U.S. Department of Labor, Bureau of Labor Statistics, March 1990, Bulletin 2356). BLS reported the national average for reservation clerks was $444 per week or $11 per hour. Moveover, the union represented reservation clerks at Northwest Airlines earn over $18.00 per hour in the local southern California labor market. Northwest Airlines competes in some of the same national and international markets.

The law requires that convict labor receive wages not less than that paid for similar work in the locality. This well known example violates this law.

The above is one obvious and egregious example, but there are others that we have identified in the past. However, this one obvious example shows that the State Prison Industry Enhancement Programs do not comply with the prevailing wage requirements of the law.

What is more, it shows that the Department of Labor has falsely stated to Congress that the Prison Industry Enhancement Certification programs complies with the requirements set forth in Title 18 USC 1761(c).

Sincerely,

John L. Zalusky
Head of the Office of Wages
and Industrial Relations
Economic Research Department

JLZ/pf
opeiu#2,afl-cio

Mr. HUGHES. Mr. Grotefend.

STATEMENT OF MICHAEL GROTEFEND, PRESIDENT, COUNCIL OF PRISON LOCALS, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFL–CIO)

Mr. GROTEFEND. Thank you, sir. In the interest of time, I will also summarize. I would like to bring some things—and, again, I think it is redundant on some of the parts we have heard, with the necessity of Federal Prison Industries. As president of the AFL–CIO, American Federation of Government Employees, the Council of Prison Locals, it is my job to represent the interests of the 19,000 working men and women who every day serve their country and fellow citizens by ensuring that those persons whom society believes need to be separated from the rest and maintained in penal institutions, in a manner consistent with laws of the Constitution.

As mentioned earlier, I am a line officer for the Bureau of Prisons, and I have been assigned to Oxford, WI, to a Federal correctional institution. I have also worked in UNICOR as a warehouse supervisor at the factory there at Oxford. So, I do feel, at least one on the panel—I have had inside experience.

I do appreciate very much this opportunity to bring to you some of the positions of our 19,000 members, in respect to this Federal Prison Industries program.

My first and foremost concern is for the health and safety of our prison workers, which I believe is also the obligation of the Attorney General, as well as this Congress. I think it has been said enough. We all know that—without contradiction. I am sure I can say that without FPI, our prisons would be unmanageable, and we would have to resort to the use of forces and procedures which I think really would be unconstitutional. Resulting mayhem occurs, and prison riots, always—and I am going to emphasize the word "always"—results in death or injury, or sometimes both. We are the object of the rage that becomes pent up when prisoners have nothing to do and no where to go.

The costs of such riots specifically outlined by Director Hawk is simply unacceptable to all of us as taxpayers, and could only result in Federal judges taking over prisons, as they have done in 45 instances at the State and local levels.

FPI brings an important component to our criminal justice system, and that is the potential for rehabilitation, and thus, a reduction in the recidivism. For years we have known that persons most likely to commit crimes are those that have been in the criminal justice system before. The challenges have been to find ways to alter their behavior. FPI does just that with greater results than any other program available. The fact is FPI does reduce crime.

Director Hawk and Mr. Seiter have provided you with all of the statistics relating to the Bureau and FPI, so I will not burden you with these facts. Rather, let me turn briefly to those who oppose FPI and seek to destroy it. I put them in two groups, small business, who have a legitimate concern that they should be able to share some of the businesses generated by Federal agencies, and a very few large furniture manufacturers who have most of the market share already, and simply want more.

FPI has an aggressive program for dealing with small business, as has been outlined by both Mr. Seiter, and in the testimony of Mr. Millan. The appointment of the ombudsman, whose main function is to hear and act out the problems of small businesses, is an important step taken by FPI to ensure that those small businesses who are disadvantaged by FPI have a place to go for the resolution of their complaints and concerns.

It is also important for us to remember, however, that there are also 4,500 other small businesses who sell their products, employ their workers, who support their families by selling to FPI and to the Bureau, who would be disadvantaged and treated unfairly if FPI were to be put out of business. When it comes to fairness and equal treatment, these 4,500 small businesses and their employees must also be considered.

Also, and very important, there are 3,500 Bureau of Prisons employees who work in the FPI program. If the program is abolished, or otherwise debilitated, or put out of business, these 3,500, and I might add, union members, their families, and a $50 million annual payroll will go with them. The most disheartening to me is the massive lobbying and money effort that is coming from certain areas of the furniture business to put FPI out of business, and subject our 19,000 fellow workers to injury or even death. This industry sold over $8 billion in business in institutional furniture in 1991, while FPI sold only $84 million, a little over 1 percent.

Finally, I fail to see how FPI could be vastly affecting these huge businesses and their trade association BIFMA. As far as their employees are concerned, I found it doubtful that, if FPI were put out of business, even one more employee would be created by them, as they are some of the most automated industries in our Nation.

Mr. Chairman, the elimination of FPI is not about money, even though eliminating FPI and making it a shell, by cutting out its sales through repealing its preference would cost taxpayers hundreds of millions of dollars. No. It is about the lives and safety of prison employees. The small comfort that the spouses and children of these employees have, knowing that you have done your best to protect their loved ones from injury and even death. As shown recently in the Utah Penitentiary, when prison workers are taken hostage, and a riot gets out of control, prison workers are the ones who get their throats slit. I urge you to reject any proposal that would make it more difficult to protect both staff and inmates. Any effort to reduce the effectiveness of FPI would do just that.

Thank you very much for your kind attention.

Mr. HUGHES. Thank you very much.

[The prepared statement of Mr. Grotefend follows:]

PREPARED STATEMENT OF MICHAEL GROTEFEND, PRESIDENT, COUNCIL OF PRISON LOCALS, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFL–CIO)

Chairman Hughes, Ranking Minority Member Moorhead and Members of the Sub-Committee. I am Michael Grotefend. As President of the AFL–CIO, AFGE, Council of Prison Locals, it is my job to represent the interests of the 19,000 working men and women who every day serve their country and their fellow citizens by insuring that those persons whom society believes need to be separated from the rest of us are maintained in our penal institutions in a manner consistent with our laws and our Constitution.

I live in Wisconsin Rapids, Wisconsin and am a line officer of the Bureau of Prisons having been assigned to the Oxford, Wisconsin Federal Correctional Institution.

In this capacity, I have worked directly with inmates assigned to the Federal Prison Industries factory at Oxford.

I appreciate very much this opportunity to discuss briefly with you the position of the 19,000 BOP employees who I represent with respect to the Federal Prison Industries program.

My first and foremost concern is for the health and safety of our prison workers, which I believe is also the obligation of the Attorney General and the Congress. I will tell you without fear of contradiction that without FPI our prisons would be unmanageable and would have to resort to the use of forces and procedures which would clearly be unconstitutional. The resulting mayhem that occurs in prison riots always and I emphasis the word *always* results in the death or injury, and sometimes both, of prison workers. We are the object of the rage that becomes pent up in prisoners who have nothing to do and nowhere to go.

The costs of such riots, more specifically outlined by Director Hawk, is simply unacceptable to all of us as taxpayers and could only result in Federal Judges taking over the prisons as they have done in some 45 instances at the state and local levels.

FPI brings an important component to our criminal justice system that is the potential for rehabilitation and thus a reduction in recidivism. For years, we have known that the persons most likely to commit crime are those who have been in the criminal justice system before. The challenge has been to find ways to alter their behavior. FPI does just that and with greater results than any other program available. The fact is that FPI reduces crime.

Director Hawk and Dr. Seiter have provided you with all of the statistics relating to the Bureau and FPI, so I will not burden you further with those facts. Rather, let me turn briefly to those who oppose FPI and seek to destroy it. I put them in two groups. Small business who have a legitimate concern that they should be able to share some of the business generated by federal agencies and a few very large furniture manufacturers who have most of the market share already and simply want more.

FPI has an aggressive program for dealing with small business as has been outlined by both Dr. Seiter and Mr. Millan. The appointment of an Ombudsman whose main function is to hear and act on the problems of small business is an important step taken by FPI to insure that those small businesses who are disadvantaged by FPI have a place to go for the resolution of their complaints and concerns.

It is also important for us to remember, however, that there are also 4500 other small businesses who sell their products, employ their workers who support their families by selling to FPI and the Bureau, who would be disadvantaged and treated unfairly if FPI were to be put out of business. When it comes to fairness and equal treatment these 4500 small business and their employees must also be considered.

Also, there are the 3500 Bureau of Prison employees who work in the FPI program. If the program is abolished or otherwise debilitated and put out of business, these 3soo people, their families and a $50,000,000 annual payroll will go with them.

But most disheartening to me is the massive lobbying and moneyed effort that is coming from certain areas of the furniture business to put FPI out of business and subject our 19,000 fellow workers to injury and death.

This industry sold over $8 Billion, yes, $8 Billion Dollars in business and institutional furniture in 1991, while FPI sold only $84,000,000 a little over ONE PERCENT. How could FPI be adversely impacting on these huge businesses and their trade association BIFMA. And as far as their employees are concerned, it is doubtful that if FPI were put out of business that even one more employee would be created by them as they are one of the most automated industries in our nation.

Mr. Chairman and Members, the elimination of FPI is not about money, even though eliminating FPI or making it a shell by cutting of its sales through repealing its preference would cost taxpayers hundreds of millions of dollars. No, it is about the lives and safety of prison employees. The small comfort that the spouses and children of these federal employees have knowing that you have done your best to protect their loved ones from injury and even death.

As was shown recently in a Utah penitentiary, when prison workers are taken hostage in a riot and it gets out of control, the prison workers get their "throats slit".

I urge you to reject any proposal that would make it more difficult to protect both prisoner and inmate. Any effort that reduces the effectiveness of FPI would do just that.

I appreciate your kind attention.

Mr. HUGHES. First of all, Mr. Swimmer, as I understand it, what you are basically proposing is that small business should basically be much more directly involved in analyzing the market, and making certain that no one part of a particular industry or region is severely impacted. Is that the thrust of it?

Mr. SWIMMER. That is essentially correct. As you know, the Federal Government has targeted small business as an opportunity in this country, and has created a number of set-aside type programs to encourage the development of small business. What happens is, of course, that in the prison industry, those opportunities are then usurped because Prison Industries does have the first set-aside for that business. I understand the need, and do not deny the Government the right to deal with whomever it wants, and to fill the prisons with all of their work; but, since it was targeted to help small businesses, we are impacted, and would like to have some opportunities perhaps in working with prisons.

I might add, our company personally does, in fact, we are one of those suppliers that was mentioned. I have probably the equivalent of maybe three people whose jobs are there because of the Federal Prisons—because we supply them with value-added products that they use in making the wiring cable. If we do not manufacture it, at least we would like to supply it. Now our sales have been cut in half over the last couple of years probably because of the decline in the defense industry, as well as perhaps this consolidation of their buying activity in Washington.

We looked at that as an opportunity for us. I guess my concern is that where Federal prisons has an absolute lock on the business—that perhaps that lock could be shared so it is not a hundred percent of the business out of a military base for the work we are doing. We did not get into this business because we saw it as the way of creating our company. We did it because we saw the opportunity in the military buildup, and we became a subcontractor to the primes. We are in the same place the primes are. We are trying to diversify. This other work is there, and it is the same work we are doing, but we are foreclosed from doing it.

Mr. HUGHES. I take it though that you see that there is a reason to have a Federal Prison Industries system?

Mr. SWIMMER. Absolutely.

Mr. HUGHES. Yes. No question about that.

Mr. SWIMMER. Absolutely. Certainly, the Federal marketplace is appropriate as a marketplace for them to sell to. I guess I would prefer, in the growth of things that it be there if I do spend the money and the effort to diversify and go into say commercial aviation, I will be a little concerned if I see an FPI coming after that business. Again, if it is building product for the Federal Government, it is no different than the State of Oklahoma. We use prisoners for an awful lot of State activities that the prisoners provide the State in different services. I see it at the Federal level. You are a procurement, and the Federal Government should be buying from them. To the extent though that it does countermand the other initiatives of small business, we would like to see some effort of, if not capping it, at least working toward a way of working together, or in creating incentives for prison industries to deal with small businesses as a supplier or a subcontractor to the prisons or vice versa,

and that kind of thing. I think there are some ways that that can be fine-tuned to help that.

Mr. HUGHES. OK. Mr. Sullivan, how do you respond to the private sector, labor and business suggestions that inmates should not be taking jobs away from law-abiding taxpaying citizens?

Mr. SULLIVAN. Well, I think that Congressman Wolf has addressed that very well in his legislation—that we would look at corporations that have left this country, and that the incentive would be to bring them back to this country, and so we would not be displacing American workers.

Mr. HUGHES. Mr. Zalusky does not like that suggestion.

Mr. SULLIVAN. Let me say—and also, this whole idea of the prevailing wage, you know, it sounds very good. I just feel by asking for the prevailing wage, I think that labor is basically destroying the good by seeking the perfect. I mean, ideally, sure, but I think by doing this, in effect, it vitiates any effort at all. I would see that, with Wolf's bill, that we have a good beginning. If you look at the corporations that have left this country, the American Correction Association has developed a list that goes on for 23 pages, and they are big corporations. At least we could begin to look at it. I think Congressman Wolf is saying let's look at a pilot program.

I think there is going to be not only the resistance of labor, I think the small business people I think would be certainly interested if it was corrected. I think corrections, in general, in the Federal system, down lower with the wardens, are not going to be that enthusiastic either. So, as you said earlier, and I will repeat what I said, it is not an easy answer. If everybody gives, let's maybe just look at it and see what we can learn from say the passage of Congressman Wolf's bill.

Mr. HUGHES. Mr. Zalusky, I really have some problems trying to follow basically the policies you have articulated. Let me see if I can understand them. Your position is that you favor going to a prevailing wage in the prison industry system. Would you then change your mind if we went to prevailing wage, insofar as competing with the private sector?

Mr. ZALUSKY. Say that again?

Mr. HUGHES. If we were to go to prevailing wage, would you then have the same objections you presently have to us competing in the private sector——

Mr. ZALUSKY. Yes.

Mr. HUGHES [continuing]. Overseas?

Mr. ZALUSKY. Definitely.

Mr. HUGHES. It seems to me you want it both ways.

Mr. ZALUSKY. I do not think so.

Mr. HUGHES. Well, let me just tell you how I think you would want it both ways.

Mr. ZALUSKY. OK.

Mr. HUGHES. In the first place, you indicate that the problem presently—you like the fact that we restrict it to the Federal Government.

Mr. ZALUSKY. Yes.

Mr. HUGHES. If we go to the prevailing wage, then we probably could not compete. Then you would have arguments, and you would be advancing the arguments that basically, as would the private

sector, that the private sector could then probably provide the goods and services a lot more cheaply than we could provide, because the purpose is rehabilitation. The primary purpose is rehabilitation.

Mr. ZALUSKY. Yes.

Mr. HUGHES. Rehabilitation, as well as controlling an inmate population, particularly at a time, as Mr. Grotefend has alluded to, we have—we are over capacity. We are at 141 percent of capacity today in the Federal system. It is going to get worse. So, we are talking about safety measures.

So, frankly, your argument, as I understand it, and I read your statement very carefully, is that we would open ourselves up to the argument that we were engaging in the same kind of slave labor that we accused China of. If we provide prevailing wage, we certainly would not be providing slave labor.

Mr. ZALUSKY. Let me respond then. First, I do not think it is the business of UNICOR to compete with the private sector. The Government trying to compete with the private sector is not, in my judgment, what UNICOR ought to be doing. UNICOR is there, as I understand it, is just as you have said, to rehabilitate convicts and to control them. To compete in the marketplace, or to compete with others I think is a misapplication.

Mr. HUGHES. We are not competing. You are being circuitous on me here.

Mr. ZALUSKY. My point is——

Mr. HUGHES. We are talking about offshore industries where we do not have a market share. Let's take the consumer electronics industry, where we only have 10 percent market share. We would not be competing with American interests. Your argument, it is a good argument—your good argument in your statement, and I share your concern, is that if we are paying slave labor, then we cannot very well complain about China and other countries basically paying slave labor, and then shipping their goods into our country and competing with our work force, and our business.

That is a legitimate argument. If we pay in the prison system a prevailing wage, which is what you have suggested, then we cannot be paying slave labor, because, if we are paying the prevailing wage, we are paying the same wage that your workers are receiving outside the prison system, wouldn't we be?

Mr. ZALUSKY. I think there are a number of issues connected with the use of convicts in the free market competing with imports or exports, even if the market has been lost to foreign competitors. Number one is, as you pointed out, the issue of the wage structure. The second is whether or not the work is voluntary. I do not think anybody would argue that working in prison is voluntary. You have to work, otherwise you are going to be disciplined. So, I do not think it is voluntary. That, to my judgment, is the definition of convict or slave labor. Using an involuntary or forced labor to compete in an open marketplace is a second threshold issue. Finally, I think, that prison labor is a subsidized business, subsidized by overhead, subsidized by labor, subsidized by an involuntary work force, competing in marketplaces that the Japanese, or the Canadians, or whoever, may feel they won fair and square.

How are they going to retaliate? They may retaliate by limiting the importation of our goods into their country, and we may lose some auto workers' jobs. I do not think we know what the impact of this——

Mr. HUGHES. It is your view that we have a free market system out there, and that other governments are not subsidizing their products?

Mr. ZALUSKY. No, it is not my view. I think we have got a whole lot better argument if we are using convict labor.

Mr. HUGHES. Here is the problem with your argument as I see it. AFL–CIO I view as a good friend. Over the years I have worked with the AFL–CIO on a lot of different issues. AFL–CIO has I think one of the best social consciences in the country. You have been respected over the years because you have done that. In this instance, here is what you are saying in essence. You are saying that—we are not saying that we do not need or want a Federal prison industry, we just do not think that, first of all, they should compete with the private sector and take jobs away. That is the first thing you are saying?

Mr. ZALUSKY. That is correct.

Mr. HUGHES. Then you are saying—we also think that they ought to pay a prevailing wage.

Mr. ZALUSKY. Yes.

Mr. HUGHES. Because, frankly, we think they ought to pay a prevailing wage. Well, I think the best way to get rid of the Federal Prison Industries system is to pay a prevailing wage, because then we could not really compete in the marketplace. Then the private sector could then legitimately argue, you know, that we are subsidizing, and it is unfair competition. They argue that today. Certainly it would be a much more legitimate argument because we are not making a lot of money as it is, and it is simply because we target our labor so it is intensive, so that we have an inmate population that is busy. They work overtime trying to keep them busy. The longer the terms, the busier they are going to be. Your argument is that you would limit that to just those who can be rehabilitated. Well, Mr. Zalusky, I would suggest that, if you were a guard for any length of time, you would want to make sure that lifers are very busy too.

Mr. ZALUSKY. Yes, but there are——

Mr. HUGHES. Now, you want to keep them busy, very busy, because they are often the ones that are probably having the least hope of any of the inmates. So, you have a very volatile situation. It is not as if the primary purpose of prison industry is to create products that compete in the industry. That is incidental. The reason it was structured the way it was is because we need to provide skills, number one, we need to keep them busy, number two, and we need to try to rehabilitate.

Mr. ZALUSKY. Yes.

Mr. HUGHES. That is why we make it labor-intensive, so much so that, frankly, they are not very well automated. The equipment they use is—and I have visited the prison industry systems—is rather archaic in many instances. They do not have the equipment that most of the efficient businesses have. The arguments I have gotten in the past when I have questioned the people that run the

system is that well, frankly, it is more labor-intensive, we know that we are not very efficient, but this system enabled us to put more to work and to teach them some very basic skills and a work ethic, and so, it was a judgment call.

Now, we could become, I would presume, much more efficient by automating, that means more investments. Then I would suggest to you that we would have arguments from you and the private sector that then we are really competing because we are subsidizing even more than we are today.

So, I just do not see any consistency. If we are for what we are doing, then it seems to me the answer is perhaps along the lines of what Mr. Swimmer and others have suggested—that we need to find new ways to do it, and new markets, new growth areas, and attempt to minimize the impact of any one sector. We are talking about limiting it to just the Federal Government. The market share, in most of these instances, is a minor part of the Federal market share.

The Federal Prison Industries system has been rather, it seems to me from the data submitted today, very lenient in making sure that exemptions are provided. While there has been some criticism of the process, frankly, that is something that we can talk about and try to correct. The answer does not seem to me to be going to a prevailing wage.

Mr. ZALUSKY. Let me respond. You have raised any number of points here, Congressman.

Let me start with the prevailing wage issue. I am not alone, and neither is the AFL–CIO on that issue. Chief Justice Burger shared the view that prevailing wages should be paid and has been sharing that view right along. So, it is not as though it is somewhat conjured up by ourselves. Congress did adopt locality wages in the PIE program, the State prison industry program, that they pay a prevailing wage for the locality. The State violates this law fairly regularly, but nevertheless it is there. Prevailing wages are because there should be no intention for Prison Industries to try to compete with free labor, but rather to keep the prisoners actively engaged and to rehabilitate them.

You raised the question of technological change on automated equipment. I went to see the prison printing system in Petersburg. I have got to tell you, Congressman, that it is using some very sophisticated printing equipment. I am not a printer by craft, I used to be an electrician. You automate and technologically change an activity for a relative few purposes. One is to improve the product that you are producing, another is to improve the safety, and another reason is to increase the productivity. A lot of the equipment I saw in the Petersburg Federal prison was productivity enhancing, and not necessarily product enhancing. It was a simply high-production competition type of an operation.

That is the kind of work. We have got people in the printing trades, Jim Norton's national union, that they would like to have the work that is being done down there. I would suggest that that is unfair competition at $1 an hour.

Now, if you would like to argue that that printing might go overseas, go to Haiti, or go to a maquiladora firm in Mexico, or Canada, and that we should then engage in it because it may go that way,

then I think you are going to have an awful lot of arguments with our members in the printing trades that want to keep that in this country.

Mr. HUGHES. Well, I think you are going to have an awful lot of arguments with your members over a lot of things. You suggested the experience in Washington State was something we could look at. I would invite you to come into my district, and you attempt to sell that idea to my building trades. You would have a major problem, and I would probably have to provide security for you to get out of my district, because it would be unacceptable, I can tell you.

Mr. ZALUSKY. I agree.

Mr. HUGHES. I mean, they are having a hard time finding slots basically for the workers that live in my district now. There is no employment. It is flat. We are not creating new jobs. To suggest that we are going to take some apprenticeship positions, which are heavily fought over in my congressional district by the building trades, I can tell you, would be unacceptable. You could go right down the line, and list—even under the Wolf approach, which is something I have debated for a long time, it has a certain amount of attraction to it. We will identify offshore industries where we have lost business.

Frankly, you would have small business still complaining for this reason, because there is an effort to regain some of that market share. If you started competing, you know, for that business, whether you pay the prevailing wage or not, you are going to have small business coming in before this committee, and making the same arguments we have heard today. That is that it is unfair, because I want to get part of that market share. I have developed new technologies, and we have been working to try to take portions of the consumer product industry back. Frankly, it is unfair for prison industries to look into that area. You would get the same arguments.

Mr. ZALUSKY. I would like to respond to just a bit of that. I used to be an international representative for the Electrical Workers, and I used to spend a lot of time in New Jersey, so we agree with what you are saying up there, particularly in Trenton.

Mr. HUGHES. You do not disagree with me?

Mr. ZALUSKY. No, I do not. That is not the point that I am making. My point is that, if the union and the management, at the point of impact of the prison industry activity are involved, there are no surprises. They know it is going to be two or three jobs here. We can manage that, if we give them sufficient time to deal with it. On the other hand, if somebody shows up in the local union hall or at the membership meeting, and says I just lost my job to a convict, then we have got serious problems. If the union does not know anything about what went on the State's need can only be opposed. That is what we have today.

Mr. HUGHES. Mr. Zalusky, the market share—the Federal market share is a very small portion.

Mr. ZALUSKY. Yes.

Mr. HUGHES. We are talking about a very small portion.

Mr. ZALUSKY. Yes.

Mr. HUGHES. You know, I have no doubt that that may have happened, but that would be most unusual I would think.

Unlike when we basically scaled down Boeing, where major jobs are lost, the Federal portion we are talking about is a very small portion, and the philosophy that has been adopted by this committee I might say, Democrats and Republicans, is let's find more ways to reduce that burden so that we do not impact any one sector, any one region. That is a legitimate argument.

Mr. ZALUSKY. The point I wanted to make is that when we were able to sit down and work it out with—the service employees, and Rick Seiter of UNICOR—the use of convicts on VA property and on Park Service property, we found it was something that could be dealt with. We reached an understanding that the Federal Prison Industry, Rick Seiter's group, will meet with the local unions at the VA site and work out arrangements between them as to which work the convicts should be doing. In this case, convicts will be doing work that would not otherwise be done. Now, clearly, most of the Service Employees Union members do not want to pick up around the campsites, so convicts can do that. That is no problem for us and it benefits all—the Federal agency, Service Employees, Bureau of Prisons, and the taxpayer. There are lots of areas where we can work these arrangements out.

My point was that when I was at Petersburg, they were talking about rebuilding explosion-proof doors off of ships. Apparently the UNICOR manager there believed that it was a good idea to talk to the local union at the Newport News Naval Shipyard, and they seem to have worked out an agreement. We agree with them in that this is the best way to proceed. However, when I called the local down there, they knew nothing about it. Nevertheless, I think that is a viable way of approaching convict labor. Convicts are also rebuilding the fork trucks off of the ships. I think that is also good, because they also worked this out with the shipyard and the union. The builder of the fork trucks, Allis-Chalmers, does not want to do it. This kind of work relationship, and dealing with labor and industry is much better than trying to deal with it as some sort of massive number crunching thing which is what is being done at the UNICOR Board of Director level now. Dealing with convict labor from the top down is bound to cause all kinds of inequities because you cannot tell what the impact is going to be. If you work with the local folks, I believe it can be worked out.

Mr. HUGHES. Well, Mr. Grotefend, thank you for your testimony. I do not have any questions.

Mr. GROTEFEND. I do appreciate it.

Mr. HUGHES. It is a very, very difficult area to deal with. There is no easy answer. I do not think even the AFL–CIO believes that we should do away with the prison industry.

Mr. ZALUSKY. No, I said that in my opening remarks.

Mr. HUGHES. We could accept certain modifications to the program that would be suggested that would really make it impossible to operate it. I know that these suggestions are not being offered for that reason.

I think what we need to do is continue to work to try to find opportunities. We heard a suggestion today that we ought to be looking at recycling. I do not know whether that is a reasonable approach—what the transportation costs would be, and what implications that would have in particular parts of the country. That is

something we should look at. We should look at, it seems to me, offshore areas, to see whether or not there are areas where we are supplying, and deal with perhaps the prison industry issues. We can do that if we adopt your thesis that we should go to prevailing wage, increase the amount that we charge inmates, start charging them for room and board, and give it back to the Federal Government. That eliminates the argument that we have slave labor, and we should look at trying to win the AFL–CIO over on the issue that we should be competing perhaps in the private sector in those areas where we do not have a market share. We have lost it already. I suspect the AFL does not want us to go in that direction.

Mr. ZALUSKY. Not at all.

Mr. HUGHES. The only direction I see, Mr. Zalusky, is the direction we are heading. We look forward to working with you. I think that is the answer. I think we need to do as you, Mr. Swimmer and others have indicated, we need to look for new opportunities, reduce the impacts in various parts of the country, and in various sectors, and work together to try to make it work as best we can.

All right. Thank you very much. The panel has been very helpful to us today. That concludes the hearing, and the subcommittee stands adjourned.

[Whereupon, at 2:43 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIXES

APPENDIX 1.—STATEMENT OF HON. JAN MEYERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS, MARCH 11, 1993

Mr. Chairman:

Thank you for allowing me to submit this statement. As a member of the Committee on Small Business, I have long been concerned over Federal Prison Industries' presence in the federal marketplace and its impact on small businesses trying to compete in that same arena. While I am aware of, and support, the purpose behind FPI's creation, I must question its effect on small business and attitude towards the federal marketplace. Mr. Chairman, I don't believe anyone seriously proposes eliminating FPI, but we must take a hard look at the impact this organization is having on free enterprise.

For years FPI has moved into new markets in federal procurement and effectively eliminated all competition through aggressive use of its contracting preference. For example, in only two years (1985-1987) FPI managed to monopolize the Department of Defense market for wire cable assemblies. Two more examples of products where FPI has "cornered" the market are draperies and Kevlar helmets. This activity certainly offends the spirit, if not the letter, of FPI's mandate not to unduly burden private industry.

Mr. Chairman, FPI has become an over $400 million a year business. At a time when government contracting opportunities for small business are shrinking, FPI continues to grow and this growth is at small business' expense, the logic is inescapable.

The sad thing is that while small business does not mind competition, they can't even compete. They are not even being given a fighting chance. Federal Prison Industries' preference takes away any hope of small business getting a shot.

On top of this, several reports have been issued by the Inspector General of the Department of Defense highlighting serious quality and pricing problems with Federal Prison Industries goods. FPI, of course, denies these inferences and maintains that their products are fairly priced and of good quality.

Mr. Chairman, I am glad that you have called this hearing to discuss the situation. I believe there is room for negotiation and compromise in all of this. I believe that if FPI is producing quality products, there is no reason why they can't start to relax their preference. Unless the Federal Prison Industries' management believes the entire federal procurement system is corrupt, or hopelessly inept, they can compete. I also believe that industry and labor can help find ways to improve FPI's expansion into new markets, markets that won't unfairly impact small business and free enterprise.

Mr. Chairman, everyone at this hearing appreciates the need for order and safety in our prison system, and they appreciate your holding this hearing. I look forward to reviewing your findings and thank you again for your courtesy in allowing me to submit this statement.

APPENDIX 2.—STATEMENT OF THE COALITION FOR GOVERNMENT PROCUREMENT, MARCH 11, 1993

The Coalition for Government Procurement is pleased to have an opportunity to present this statement for the record this morning.

The Coalition is a non-profit, multi-industry trade association representing more than 200 large and small companies that sell commercial goods and services to the federal government. Since 1979, the Coalition has worked on behalf of its members with federal officials to maintain common sense in the procurement process. Together, our member companies are responsible for approximately $3 billion a year in government business.

The current operations of Federal Prison Industries show that it is a program that is out of control. We urge Congress to take emergency action to prevent further loss of private sector jobs to prison labor, and to stimulate local and regional economies. In addition to this emergency action, steps should be taken to improve and increase oversight of Federal Prison Industries to prevent a recurrence of the problems FPI is causing today.

The Coalition was one of the first trade associations to identify the operations of Federal Prison Industries (FPI) as a potential threat to our members. We believe it is imperative to remember one thing when the current operations of Federal Prison Industries are discussed: FPI's operations cause hard-working, tax paying citizens to lose jobs. These citizens lose their jobs not through natural competition or to foreign labor, but to convicted felons working in a tax-payer funded program who have already done harm to the community.[1] The Coalition feels that this is absolutely unacceptable and that, no matter what else is done, FPI's current operations must be altered to end this inequity.

Although FPI officials claim that their operations create private sector jobs, what few jobs may be created are more than offset by the substantial number of good paying, manufacturing jobs lost. The Coalition contends that the private sector can almost always do a better job of providing meaningful, lasting employment than federal "make-work" positions which add to the deficit and, in fact, allow FPI to be more of a threat to private sector workers by circumventing their statutory mandate to be as labor-intensive as possible. If FPI were truly labor intensive they would have a minimal effect on the economy either way.

It is important to note that the Coalition, and most other groups involved in the FPI reform issue, do not want to see Federal Prison Industries abolished. We support the basic concept of keeping prisoners busy and making an effort to teach them basic job skills. In fact, Federal Prison Industries carried out its operations for many years without posing a threat to our members. We are extremely sensitive of the need to maintain order and stability in federal prisons. The Coalition believes, however, that these goals can and should be met without the current resultant loss of thousands of private sector jobs.

Toward this end, the Coalition has worked for the past eight years with FPI officials, Congress, other federal agencies, and other outside groups to "level the playing field" between FPI and private companies. During that time, FPI has ballooned from a relatively small entity into a big business with over $500 million in sales. Despite the apparent best efforts of all parties involved, FPI continues to expand its operations in areas where overall federal and commercial market demand has declined. Furthermore, FPI officials have been either resistant or slow to embrace possible new products and services that would diminish their impact in the markets where they are now most active.

The Independent Market Study on Federal Prison Industries commissioned by Congress in 1990 and executed by the firm of Deloitte and Touche supports these claims. The Deloitte and Touche report shows that FPI increases in the office and

[1] Although FPI officials insist that their operations are self-supporting, all income is from federal tax-payer funds appropriated to the various federal agencies. Therefore, the burden for FPI's financial support clearly falls to the taxpayer. FPI's high prices for many items add needlessly to this burden and waste scarce federal financial resources.

dormitory furniture area came at a time when the overall demand for these products declined in the commercial and/or federal markets. Additionally, although FPI officials consistently state that they produce items in over 70 Federal Supply Codes (FSC's), the Deloitte and Touche report clearly shows that they are primarily active in just four: furniture, metal products (which includes many furniture items), wire and cable harnesses, and textiles. Industry estimates and those of Deloitte and Touche both show that FPI has seized 25% of the federal market for office furniture and over one-third of the market for dormitory and quarters furniture. Their share of the federal wire and cable harness market is estimated at 90%. All of these figures are well in excess of FPI's statutory mandate to take no more than a reasonable share of the market for any one product. FPI's constant claim, therefore, that they are active in over 70 FSC's, while not technically false, is extremely misleading.

At the request of several in Congress, the Coalition and other groups have been actively negotiating with FPI since June of 1992. These negotiations have been assisted tremendously with the help Dr. Warren Cikins of the Brookings Institution. Dr. Cikins efforts in maintaining order in the meetings and acting as a disseminator of all position papers and meeting minutes have been nothing short of heroic. Despite his efforts, and those of other participants, only some small progress has been made on improving FPI's communication with industry. No significant progress has been made at all on the larger issue of identifying new areas for FPI operation. Several possibilities have been under review for many months, but are yet to have any details developed. The participation of several widely disparate groups in the negotiation process may make it impossible to identify new products for FPI to produce which will alleviate their pressure on their traditional industries such as furniture and draperies.

It is possible, however, that FPI may not need to identify any new products in order to begin diminishing its presence in their traditional areas. The Coalition believes that FPI officials should examine the possibility of expanding into some of the 70 less developed products areas were FPI already has experience and a production capability. If FPI were truly diverse across these areas, they would pose no threat to any one industry and Congress would not find itself occupied with this issue. Although this option has previously been presented to FPI officials by the Coalition, we know of no action taken to examine these possibilities. The Coalition requests, therefore, that Congress *require* FPI to expand in areas, other than their traditional industries of furniture, metal products, textiles, and wire and cable harnesses, where they already claim to be active. FPI should expand in these areas to a level short of where they would pose a threat to private sector companies. While there may be no large federal market for some products, all should be thoroughly explored. As FPI expands in these areas, it should be required to accordingly reduce its production in their traditional four areas. This approach would enable FPI to maintain a high level of prisoner employment and help maintain prison security. It would also provide relief to industries hard hit by their current operations. Although the Coalition has asked FPI to take these actions in the past, to date, no action has been taken.

The Coalition believes that this step would be an important part of any meaningful solution to the FPI problem. It can almost immediately relieve pressure on the traditional four areas now, and help stimulate the economy, without going through the protracted process of identifying entirely new product areas before any relief is obtained.

The most recent Presidential election centered on the creation of jobs and the improvement of the economy. The Coalition feels that it would be totally consistent with these national priorities for Congress to require FPI to reduce its operations in their traditional four areas. Jobs would not only be saved, but created. Local and regional economies, especially those in the northeast and midwest already hurt by tough economic times, would also be improved. The Coalition requests, therefore, that Congress take emergency legislative action that will not only save jobs, but create jobs and improve the domestic economy in directing FPI to immediately reduce its production in the areas of furniture, metal products, textiles, and wire and cable harnesses. In addition, FPI's "super-preference" should be eliminated to provide contractors an equal opportunity to obtain federal business.

This emergency action will prevent further expansion by FPI in those areas already hit hard by FPI "competition". It is in concert with the overall goal of having FPI reduce its production in these areas if alternatives can be found and in accordance with the expressed views of FPI's senior management that the "super-preference" be phased out. Because it is unlikely that FPI and industry will agree to any alternative, at least in the foreseeable future, the Coalition is requesting this

emergency action now to save taxpayer jobs and help stimulate local and regional economies.

This process is not a win—lose situation. Requiring FPI to curtail production in its traditional areas will not automatically create unsafe prisons. The Coalition feels, however, that, like all citizens currently being called on to make a sacrifice in the name of the national economic good, FPI must make some concessions in its current operations to alleviate its deleterious effect on the private sector.

Over the past year the Coalition has participated in negotiations with FPI which have resulted in little progress. Meanwhile, FPI has continued to expand and caused tax-paying citizens to lose their jobs. FPI sales last year increased by $83 million and reached $500 million. This expansion came at a time when many U.S. companies, including those with which FPI "competes", saw a decline in their sales volume and laid off workers.

While the Coalition would like to remain optimistic for a successful conclusion to the negotiations, a continued lack of progress has forced us to re-evaluate this path and consider other means of obtaining long-term FPI reform. To prevent further erosion of domestic employment and to provide stimulus to the economy, we urge Congress to take immediate legislative action to shield those industries already severely impacted by FPI's current operations.

The Coalition appreciates this opportunity to present this testimony for the record and looks forward to working with the Committee toward a resolution to this problem. We would be pleased to answer any questions the Committee might submit.

APPENDIX 3.—STATEMENT OF KATHLEEN A. LEONARD, EXECUTIVE DIRECTOR, FEDERAL CORRECTIONAL VENDOR'S ASSOCIATION, MARCH 11, 1993

I appreciate the opportunity to submit this Statement as Executive Director of the Federal Correctional Vendor's Association. My submission is important to the Members of this Subcommittee as I believe you should know the concerns of the thousands of businesses (many of them small businesses) who *benfit and supply* goods and services to the Federal Prison Industries' (FPI) programs throughout the country. These companies sell many millions of dollars each year to FPI.

It would be preaching to the choir for me to suggest to the Members of this Subcommittee just how difficult it is for businesses today to survive through these tough times and economic uncertainty. However, it is important for you to know that any curtailment of the FPI program would indeed adversely impact thousands of vendors throughout the nation who rely on FPI for some portion of their business. In fiscal year 1992, there were some 9,000 vendors, nationwide, listed with FPI who did many millions of dollars in sales and who had many hundreds of employees and families dependent on these sales to FPI.

Florida, for example had 271 vendors listed with FPI, 179 of them small businesses, who did approximately $6 million worth of business in FY '92. California had 29 vendors listed who did approximately $4.6 million worth of business in this same period. While the numbers may not be overwhelming for people who refer to the budget every day in terms of billions and trillions of dollars, it is important for those individual businesses who may rely in whole or in part on the FPI programs. Putting FPI out of business could mean lay-offs or even the difference between survival & shutdown for them.

Bearing these facts in mind, I ask you Mr. Chairman and all of the Members of this Subcommittee to consider that in addition to the devastating impact the elimination of this vital correctional program would have on our federal prison system, already facing the problems of spiraling inmate populations, potential budgetary construction cut-backs, mandatory sentencing, and the like, there are real people, real dollars and real businesses that also would be severely impacted by any curtailment of the FPI programs.

Let me close with the fact that while there are other business groups which appear to oppose FPI, they all agree that there must be a program such as FPI. They simply don't want FPI to make products made by their industry. One such group is the Business and Institutional Manufacturers Association, i.e., BIFMA.

BIFMA claims that its industry is disadvantaged by FPI. But the facts are that FPI sold $84,000,000 in business furniture in 1991 while BIFMA industries sold $8.0 *Billion*. It is more than disingenuous for an industry as huge as BIFMA to "poor mouth" this Subcommittee when it has numbers like those. The fact is that if FPI were eliminated, the total number of non-inmate jobs in the public and private sector would substantially decrease while the number of new jobs created would be de minimis. This is particularly true in the business and furniture industry which is non-union and highly automated.

I sincerely appreciate this opportunity to submit facts which I believe play a major role in understanding the significance of the FPI program to businesses throughout the country, and in addition, to support our federal prison system which relies so heavily on this proven correctional program.

APPENDIX 4.—STATEMENT OF ROBERT MILLAN, MEMBER, BOARD OF DIRECTORS, FEDERAL PRISON INDUSTRIES, MARCH 11, 1993

Members of the Committee, Mr. Chairman, ladies and gentlemen, it is both an honor and a privilege to testify before you today. My name is Bob Millan, and I have served on the Board of Directors of Federal Prison Industries, Inc. (FPI) since being appointed by President Reagan on February 1, 1989, just a little over four years ago.

I am a small businessman myself, and that sector of the economy is well represented by 3 of the 5 current members of the Board. I have spent my working career in banking in southwest Ohio, retiring 5 years ago as Chairman of the Board. I was very sensitive to things that adversely affected the profit and loss of customers, particularly those who had loans with the bank. So I am naturally sensitive to the impact that prison industries can have on small businesses.

While my profession was banking, I have a long-standing interest in prison work, which goes back over 20 years. I have had a personal mission of trying to get the private sector concerned and involved with our country's crime and corrections problems.

During these five years of service, I have witnessed the total inmate population of the Federal Bureau of Prisons grow from a level of about 50,000 to a level approaching 83,000 today. That translates into an average intake of almost 130 new inmates every week. The challenges associated with managing this population explosion are staggering, and the men and women of the Bureau who face them each and every day and night are among the finest, most dedicated public servants in the nation. Director Kathleen M. Hawk, who has had these responsibilities since the end of last year, and J. Michael Quinlan, who served as the Bureau's Director from 1987 through 1992, deserve the country's gratitude for their leadership in meeting one of the greatest public administration challenges of our day.

Understanding the problems associated with managing this rapid growth in the prison population, and the role of the Federal prison system in society, leads to an appreciation of the inseparable nature of the Bureau of Prisons and that part of its mission carried out by Federal Prison Industries (FPI).

The Bureau's mission can be stated as follows:

> It is the mission of the Federal Bureau of Prisons to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

The Bureau conducts several correctional programs to help accomplish this mission, but the single most important such program is the industrial work program conducted by FPI. The absolutely essential nature of prison industry programs to the humane, safe, and secure operations of prisons has been widely acknowledged by criminologists and prison administrators throughout the world. Their effectiveness in assisting ex-offenders to become law-abiding citizens has also been recently documented in an exhaustive five-year study of over 7,000 Federal prisoners who were released to the community between 1984 and 1986. These former inmates had significantly greater success in finding and retaining employment and remaining crime-free after their release. In summary, a prison system cannot meet the mandates that a civilized society and that society's constitutional and judicial system require without a vigorous prison industries program.

Thus, in the Federal system, any potential adverse impact that the FPI correctional program may have cannot be viewed in isolation, but must be seen in the context of the role of the entire Bureau of Prisons in society and in the economy. In 1993, the Federal Bureau of Prisons' budget, when combined with FPI's expenditures of its non-appropriated sales dollars, will exceed $2.5 billion. All of this money, in one way or another, goes back to private sector businesses and individuals through purchases of goods and services, construction expenditures, and staff salaries.

I personally believe that the Bureau and FPI have a positive effect on private-sector labor. They provide employment for approximately 25,000 civilian workers at the Bureau's 48 separate factory locations spread all over the United States. Many of these locations are small communities such as Talladega, Alabama, and Lewisburg, Pennsylvania, where the prison is a major employer and a major contributor to the local economy.

The positive economic effect of the Bureau and FPI is highly appreciated in these communities throughout the nation, though it often is a silent appreciation, not heard above the strong vocal opposition of the few who oppose prison industries on narrower grounds. Broad societal imperatives demand a professionally managed prison system aimed at ensuring that our streets, neighborhoods, and communities are safer places in which we, and our children, can live and work. Federal Prison Industries plays a major role in the accomplishment of this mission.

Also, let's not lose sight of the 74,000 inmates in Federal prisons who are out of the domestic labor pool and are not competing for private-sector jobs. These individuals have been disruptive to our communities and our businesses. The Bureau plays a major role in preparing these individuals to return to our communities as productive, law-abiding citizens. It has been clearly demonstrated that FPI is the Bureau's most effective program in the preparation of offenders for successful community reintegration. It is through their industrial work experience that they learn positive work habits, salable skills, and personal responsibility.

I believe that labor should support FPI's need to expand its operations in light of the positive effects that inmate industrial employment has upon the future of our communities. The private sector should view FPI's expansion requirements as a reasonable trade for a safer society.

Let me now move to a more specific discussion of Federal Prison Industries and the role of the Board of Directors of FPI. FPI was created by Congress in 1934, as a federally chartered corporation, with oversight of its operations provided by a Presidentially appointed Board of Directors. The enacting statute (18 U.S.C., Section 4122(b)(1)) charged the Board with three responsibilities:

1) To provide employment in industrial-type operations for the greatest number of Federal inmates who are eligible to work as is reasonably possible;
2) To provide that FPI's operations do not result in any undue burden of competition on any single industry;
3) To provide that FPI's operations result in a minimum level of competition with private industry or free labor.

It is clear from this statutory mission that Congress wanted FPI's Board of Directors, which includes private sector representatives from industry, labor, agriculture, retailers, and consumers, to strive for balance among the various interests that might be affected by FPI operations. I am here to voice my belief that FPI and its Board of Directors have met this legislative charter successfully over the last 58 years. Further, I can assure you that during my four years on the Board, we have been particularly sensitive to the changes in the U.S. economy brought about by the impact of imports, technology, and changing Federal budget priorities, and the effects that these developments have had on U.S. companies and American workers. We have striven to ensure a fair and balanced consideration of these factors when making decisions about FPI's continuing need to expand industrial work opportunities for an ever-growing inmate population.

My tenure on the Board has paralleled the enactment and implementation of the industry involvement guidelines process, which now governs FPI's expansion into new industries as well as any major growth initiatives in existing industries. These guidelines provide a formal vehicle for extensive involvement of any, *I repeat, any,* private sector organization or individual who wishes to provide the Board with information concerning the potential impact, if any, of FPI's new products or expanded production proposals. It also requires FPI management to prepare a comprehensive analysis of the potential impact, if any, of its expansion plans on the private sector; to announce its plans in the Commerce Business Daily and the Federal Register; to distribute its competitive impact analysis to the public; to meet with appropriate private sector interests to discuss the analysis and listen to their concerns; and to prepare a formal submission to the Board that responds to concerns raised and comments submitted during the process. Industry, business, trade association representatives, or any other interested party can also request an opportunity to provide in-person testimony to the Board of Directors.

While these procedures are time-consuming and have meant a lot more work for both the Board and FPI staff, they have proved their usefulness in ensuring that Board decisions are based on the broadest array of information that can reasonably

be obtained. They have enabled the Board to continue to effectively balance the interests of the private sector and the interests of society in providing meaningful employment and training to inmates, so that they will be more likely to become contributors to, rather than predators on, that same society to which they will one day be released.

Since implementation of the industry involvement guidelines, the Board has reviewed 11 proposals by FPI to manufacture and sell new products or to significantly expand production of its existing product lines. The Board heard in-person testimony in many of these and ultimately disapproved three FPI requests—combat boots, work shoes, and military tents—due to the potential for increased adverse impact on these industries. Perhaps the principal reason for rejecting these was the fact that all three industries have already been significantly affected by imports, and the government market is important to their continuing survival. Also, the Board, while approving other FPI production initiatives, has often stated its intent that FPI should attempt to team with private sector firms in partnership arrangements that could be mutually beneficial. It should be noted that the Congressionally mandated Independent Market Study, conducted by the firm of Deloitte and Touche, also viewed these types of cooperative, joint-venture-like operations as an integral part of their recommended FPI growth strategies.

Because of the Board's sensitivity to the private sector, we recommended to FPI that they create an Office of Ombudsman to respond to concerns from private industry and labor regarding FPI's future growth options. In response to our recommendation, FPI created this office in March 1992. The Ombudsman's primary goal is to open lines of communications with the private sector, and to be aware of and continue to serve as a spokesperson to FPI management regarding the potential impact FPI operations have on business and labor. Another important role of the Ombudsman is to review appeals from customers who requested and were denied waivers to purchase outside of FPI. If FPI cannot meet the customer's price, quality, and delivery time, FPI will work closely with Federal agencies in making mutually agreeable decisions on customer waivers. Should an agency receive an unfavorable decision from FPI, the agency may appeal the decision to the Office of the Ombudsman. The Ombudsman reported to the Board that in fiscal year 1992, FPI approved $264 million in waivers of $294 million requested. FPI received approximately 7,000 waivers and approved 6,465, or 90 percent, of them during the last quarter of fiscal year 1992.

In addition to the Office of the Ombudsman, we have also put into place a grievance procedure so that all interested parties can voice any concerns that they may have regarding FPI to the Board. These procedures were published in the Federal Register and the Board is willing to address any grievances put to them.

Again, we the Board take our role very seriously in helping FPI balance its legitimate need to employ inmates with the equally legitimate concerns of industry and labor. The Board is confident that FPI will continue to employ and train as many inmates as possible. At the same time, it will strive to find ways to build on the sound business relationships already developed with the private sector, and, as suggested in the market study, will cultivate new partnerships for the future.

APPENDIX 5.—LETTER FROM HON. BENJAMIN A. GILMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK, DATED MARCH 17, 1993, TRANSMITTING A STATEMENT FROM STEPHEN HELLER, OWNER, HILTRONICS CORP., UNDATED

MAR 25 1993

BENJAMIN A. GILMAN
[illegible]

FOREIGN AFFAIRS COMMITTEE
[illegible]
EUROPE AND MIDDLE EAST
[illegible]
INTERNATIONAL OPERATIONS

POST OFFICE AND CIVIL SERVICE COMMITTEE
[illegible]
SELECT COMMITTEE ON HUNGER

Congress of the United States
House of Representatives
Washington, DC 20515-3222

RECEIVED
MAR 25 1993
Sub on Courts

March 17, 1993

The Hon. William J. Hughes
Chairman, Subcommittee on Intellectual Property
and Judicial Administration
207 Cannon HOB
Washington, DC 20515

Dear Chairman Hughes:

I have received the attached statement from Stephen Heller of Hilltronics Corporation, regarding UNICOR. I would appreciate submitting Mr. Heller's statement into the Subcommittee's record of its March 11th hearing on UNICOR.

Please note that Mr. Heller used to maintain a small business in my district until he forced to down size and move to Florida because of UNICOR's involvement.

Thank you for your kind attention.

Sincerely,

BENJAMIN A. GILMAN
Member of Congress

BAG:ptb

PLEASE REPLY TO:
[illegible]

HILTRONICS CORPORATION
3700 NW 124th AVENUE, SUITE #121
CORAL SPRINGS, FL 33065
PHONE (305) 341-9180
FAX (305) 341-3431

House Judiciary Committee
Subcommittee on Intellectual Property and Judicial Administration
Washington, D.C.

Attn: Chairman and Members of the Committee

Subject: Request for Protection for Small Business from the Predatory Policy of UNICOR in the Manufacture of Cable Assemblies.

Gentlemen:

My name is Stephen Heller and I am the owner of a small company, Hiltronics Corporation, which has manufactured communications cable assemblies for the past 23 years at Stony Point, N.Y. Our cord assemblies are used aboard Navy fighter aircraft, helicopters, and patrol aircraft. The cords are part of the critical communications link between the pilot, the crew and the outside world.

Almost all of our cord assemblies were supplied to the United States Government on the basis of competitive bids. If Hiltronics was the low bidder, we received the contract. If Hiltronics was not the low bidder, the award was made to the low bidder. This was the system and it was fair to the Government and small business contractors. At our peak, Hiltronics employed 45 people.

A few years ago, UNICOR embarked on a program to manufacture almost all of the cord assemblies that Hiltronics had been supplying to the government. UNICOR used the special preference granted under Public Law 18 that was passed in 1934. There is no longer competitive bidding for the cable and cord assemblies because all of these awards are now directed to UNICOR. This preemptive action of UNICOR has forced Hiltronics to slash our workforce and lay off 43 of the 45 employees. Other small companies in the cord assembly business have gone one step further and closed their doors. To survive, we closed the New York factory and moved to Florida to lower our rent and energy costs.

Unable to appear before your congressional committee to seek your help, I submit this statement. Congress granted UNICOR unlimited powers 60 years ago. UNICOR has abused this power and irreparably damaged small companies. Now is the time to place limits on UNICOR and save the remaining small businesses. The authorizing legislation never intended to make UNICOR a monopoly in any area and limited their percentage of the market. This limit is being applied against the entire market, without regard for the effect that UNICOR is having on any particular segment. Therefore, while UNICOR may claim to take only 5% of the entire cable assembly market, they have taken almost 100% of several segments. May I suggest for your consideration a limit by Federal Stock Number instead of Federal Stock Class. UNICOR should be limited to a 25% maximum of any particular Federal Stock Number for each procurement. The balance of the item covered

by the Federal Stock Number should be awarded to private industry on a competitive basis. This will allow UNICOR to continue to employ prisoners while spreading the damage to private industry among a larger base.

Recently, UNICOR printed an elaborate brochure, at taxpayer expense, to publicize their contribution to the military during the "Desert Storm" operation. Not mentioned in the brochure was a cable assembly used on board Marine Corps helicopters. This cord assembly allows the helicopter to communicate with the ground, airborne controllers, and other aircraft. There were five consecutive contracts awarded for this cord assembly by the Defense General Supply Center, Richmond, Virginia (DGSC). UNICOR would not allow DGSC to purchase this item from private industry. The five contracts were taken by UNICOR. Lacking the technical know-how, UNICOR was unable to build this cable assembly and could not deliver the contracts on time. The supply depots were out of stock of this cable when Desert Shield was preparing for the Middle East War.

Hiltronics filed protests with the General Accounting Office (GAO) requesting termination of the UNICOR contracts for failure to deliver. We stated that without the cable assemblies, the helicopters could not fulfill their mission and loss of life could result and the mission could be jeopardized. Our protests were rejected and UNICOR's failure to deliver was considered irrelevant by the GAO. The special preference under Public Law 18, as interpreted by the GAO, allows UNICOR to take contracts whether they deliver or not.

Unable to obtain the needed cables from depots before the Marine helicopters were sent to "Desert Storm," they made small purchases of cable assemblies from private industry on an emergency basis. Hiltronics supplied small quantities of this vital cable assembly to Marine Corps helicopter units before they left for overseas.

We were fortunate that "Desert Storm" only lasted a few weeks. If the military operation lasted longer and additional cable assemblies were needed, the empty depots could not supply them. This would have been a heavy price to pay for UNICOR's special preference policy. This is another reason to impose a percentage ceiling by Federal Stock Number as it will prevent UNICOR from tying up 100% of any particular item.

Sincerely,
HILTRONICS CORPORATION

Stephen S. Heller

Stephen S. Heller

APPENDIX 6.—LETTER FROM HON. WILLIAM J. HUGHES, CHAIRMAN, SUBCOMMITTEE ON INTELLECTUAL PROPERTY AND JUDICIAL ADMINISTRATION, TO KATHLEEN HAWK, DIRECTOR, FEDERAL BUREAU OF PRISONS, U.S. DEPARTMENT OF JUSTICE, APRIL 8, 1993

ONE HUNDRED THIRD CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

April 8, 1993

Ms. Kathleen Hawk
Director, Federal Bureau of Prisons
320 First Street
Washington, D.C. 20534

Dear Ms. Hawk:

Thank you again for your appearance as a witness at the oversight hearing on the Federal Prison Industries, Inc. (FPI) on March 11, 1993. As I indicated at the hearing there are a number of follow-up questions which need response for the hearing record. I appreciate your assistance in providing responses.

1. In response to a question concerning the Board of Directors for FPI you indicated that the Bureau of Prisons did have the opportunity to have input into the director selection process. Could you please elaborate on the nature of this input and did the Bureau participate in the latest appointment to the Board of Directors?

2. Please elaborate on the waiver process utilized by FPI. In addition to the present average time for review of waivers, please provide examples of the shortest and longest review; the reasons for the time period; and, provide any written materials describing the waiver process and forms that have to be utilized by agencies requesting a waiver.

3. In reviewing sales and earnings figures for past years, I noticed that there was a significant drop in earnings as a percentage of sales from 1986-1992 - 11% to 4.8%. In one particular year, 1988-1989, it declined from 10.8% to 6.9%. Can you explain these changes?

4. In 1990 FPI was given authority to borrow money on a limited basis from the Treasury for capital expenditures. Has this been utilized since 1990? If so, please provide details.

5. Mr. Robert Millan was appointed to the FPI Board of Directors as a representative of the Secretary of Defense. Please explain how Mr. Millan represents the Secretary of Defense and if regular

meetings are conducted with the Secretary of Defense as part of his role of representative.

6. Please provide the number of FPI employees who are engaged in marketing services for FPI.

If you have any questions about this letter or the hearing, please contact Jarilyn Dupont with the Subcommittee on Intellectual Property and Judicial Administration.

Sincerely,

William J. Hughes
Chairman
Subcommittee on Intellectual Property
and Judicial Administration

WJH:jd

APPENDIX 7.—LETTER FROM KATHLEEN HAWK, DIRECTOR, FEDERAL BUREAU OF PRISONS (With Attachments), TO HON. WILLIAM J. HUGHES, CHAIRMAN, MAY 6, 1993

U.S. Department of Justice

Federal Bureau of Prisons

RECEIVED

MAY 11 1993

Sub on Courts

Office of the Director

Washington, DC 20534

May 6, 1993

Honorable William J. Hughes
Chairman
Subcommittee on Intellectual Property
and Judicial Administration
U. S. House of Representatives
Washington, D.C. 20515-6216

Dear Mr. Chairman:

This is in response to your recent letter, regarding the oversight hearing on Federal Prison Industries, Inc. (FPI) held on March 11. Your letter proposes several follow-up questions regarding FPI.

1. In response to a question concerning the Board of Directors for FPI, you indicated that the Bureau of Prisons did have the opportunity to have input into the director selection process. Could you please elaborate on the nature of this input and did the Bureau participate in the latest appointment to the Board of Directors?

The Director of the Bureau of Prisons apprises the Attorney General of all significant developments relating to the FPI Board of Directors. This includes issues considered by the Board as well as any vacancies on the Board. In the past, the Bureau has been afforded the opportunity to comment on persons who are being considered for appointment to the Board.

The latest appointment to the Board was Thomas N. Tripp. His appointment was announced on November 16, 1992, by the White House as succeeding Joseph Lane Kirkland. In August 1992, the former Director of the Bureau advised the Office of the Attorney General about the need to have a strong labor candidate in this particular Board seat.

2. Please elaborate on the waiver process utilized by FPI. In addition to the present average time for review of waivers, please provide examples of the shortest and longest review; the reasons for the time period; and, provide any written materials describing the waiver process and forms that have to be utilized by agencies requesting a waiver.

FPI's waiver procedures are provided in the attached documents. The sheet entitled "Waiver Request Procedure" is routinely mailed to customers and outlines the steps they must take in order to request clearances to procure goods from sources other than FPI. The second document entitled "Waiver Guidelines" outlines the procedures that designated FPI staff must follow to ensure consistency and fairness of evaluation when considering customers' waiver requests.

FPI's goal is to render a decision to the customer on a waiver request within five business days following receipt of the properly executed request. In the great majority of cases, FPI meets these goals. At times, however, delays do occur, often as a result of the receipt of only partial information from customers. In such instances, FPI must contact the customer and receive any missing data before the request can be properly reviewed. In an attempt to avoid unnecessary delays to customers' waiver requests, FPI strives to provide written instructions for customers that are as clear as possible.

FPI's computerized waiver processing system has been implemented for approximately one year. The system is extremely efficient, and turnaround time for responses to waiver requests is often within hours of receipt. Generally, FPI insures that waivers will be processed within five working days. A report summarizing the last six months waiver processing turnaround is attached.

3. In reviewing sales and earnings figures for past years, I noticed that there was a significant drop in earnings as a percentage of sales from 1980-1992 - 11% to 4.8%. In one particular year, 1985-1986, it declined from 10.8% to 6.9%. Can you explain these changes?

FPI does not have an exact breakdown of sales and earnings by product for all of the years since 1980; however, we can provide general reasons for the change in our earnings rate during that period.

BEST COPY AVAILABLE

a. The rapid expansion of the Federal prison population and the resulting demand for additional inmate work opportunities during this period has increased the need to expand FPI's product research and marketing capabilities. Effective research and development is necessary to identify and develop new products and services opportunities. It is through this process, that FPI develops new inmate work programs for the expanding inmate population. Although this is a necessary function, it also increases general and administrative costs that must be applied as overhead against sales income levels.

b. In order to supply an increasing prison population with meaningful work opportunities while minimizing the impact on private sector businesses, FPI entered into the production of products and delivery of services that were more difficult to provide than those traditionally offered. This caused significant earnings reductions while FPI's capabilities matured in those industries. During the 1985 - 1989 period, FPI opened factories to manufacture Battle Dress Uniforms (BDU's), tee shirts and boxer shorts for the U.S. Army. During this period it is estimated that the Corporation experienced losses associated with factory start-up of $18 - $20 million. We now produce BDU's and shorts at a profit but have discontinued tee shirts. There were several other new products that were generally a negative influence on our earnings in their first year or two of operation. Examples are the Kevlar Combat Helmet and prescription and safety eye wear (optics).

c. The dramatic expansion in the Federal prison population has also forced FPI to take more low volume orders that are more expensive to manufacture.

d. Changes in customer demands and product lines caused inventory write-offs over several years including $4.5 million in 1985 alone.

In FY 1980, FPI had 80 factories at 37 Federal prison locations. Today, FPI operates 89 factories at 47 Federal prison locations. This rapid growth as a result of a greatly increasing prison population, coupled with the reasons cited above are why FPI profits have dropped over the last 12 years. As pointed out by the Independent Market Study mandated by Congress, extreme diversification such as that required by FPI's statutes accomplishes its goal of reducing impact on private sector industries. However, this diversification is very expensive, and it makes economies of scale and other efficiencies difficult to achieve.

FPI is currently taking measures to reduce both operational and administrative costs. These measures include new automated information and planning systems and major streamlining efforts. It is through these initiatives, that FPI will improve earnings performance in the coming years.

4. In 1990 FPI was given authority to borrow money on a limited basis from the Treasury for capital expenditures. Has this been utilized since 1990? If so, please provide details.

FPI borrowed $20 million from the Treasury in 1989 in order to construct factories at new Federal prisons. These funds were utilized to construct new factories at the following new institutions:

FCI Marianna, FL
FCI McKean, PA
FCI Jesup, GA
FCI Sheridan, OR
FCI Three Rivers, TX

5. Mr. Robert Millan was appointed to the FPI Board of Directors as a representative of the Secretary of Defense. Please explain how Mr. Millan represents the Secretary of Defense and if regular meetings are conducted with the Secretary of Defense as part of his role.

In recent years there has not been a close affiliation between the Secretary of Defense and the Board of Directors. As such, regular meetings are not held between Mr. Millan and representatives of the Secretary of Defense. However, FPI has frequent and direct interaction with the Department of Defense. The results of such meetings are routinely provided to the Board.

The Congressionally Mandated Independent Market Study recommends that the composition of the Board emphasize the expertise needed by the Board, rather than any particular affiliation. The two exceptions to this would appear to be the seat representing the Attorney General and the labor seat, where a close working relationship with the Department of Justice and organized labor would be beneficial.

6. Please provide the number of FPI employees who are engaged in marketing services for FPI.

As of this date, FPI has 12 persons devoted exclusively to generating services business. This includes the reassignment of several persons who were formerly marketing furniture and other traditional FPI goods to develop new, non-traditional service work opportunities for inmates. Some of the more promising areas of potential service work

BEST COPY AVAILABLE

for FPI include various types of rebuild and repair services. Equipment in this category includes forklifts, vehicular components and personal computers, as well as the repair of textile items. Other service areas include tool kit assembly; distribution of printed matter and other items; telephone answering services; and data services to support advanced technologies such as the digitizing and conversion of maps and engineering drawings into an electronic format. The accompanying brochure outlines the primary areas where FPI has concentrated efforts, in an attempt to generate non-traditional service jobs for inmates. To support its marketing efforts, FPI has created a Services Strike Force comprised of sales, market research, and engineering staff to continually assess the viability and feasibility of these promising new areas as they are identified.

I trust this is fully responsive to your questions. I would be happy to provide you with any additional information, or to elaborate on any of these responses.

Sincerely,

Kathleen M. Hawk

Kathleen M. Hawk
Director

Enclosure

WAIVER REQUEST PROCEDURE

In accordance with Title 18, U.S.C., Sec. 4124(a) and Federal Acquisition Regulations subpart 8.6, Federal Prison Industries, Inc. (UNICOR) has a mandatory preference for supplies listed in its "Schedule of Products." When an ordering office wishes to purchase supplies listed in the "Schedule" from sources other than UNICOR, it will submit a request for waiver to the Customer Service Manager, Federal Prison Industries, Inc. (UNICOR). The request will be directed as follows:

Federal Prison Industries, Inc.
320 First St., N. W. (ACACIA)
Washington, DC 20534
Attn: Customer Service Manager

Telephone: 1-800-827-3168
Facsimile: 202-438-1397

Federal Prison Industries, Inc. (UNICOR) will consider requests for waivers based on documented disparities in price, inability to meet reasonable delivery dates, and disqualifying variations in function and "match." Requests will be considered in connection with the standards set out in its Waiver Policy. UNICOR has attempted to set out with the greatest degree of objectivity the standards that it applies in making decisions on waivers. While there must inevitably be some discretion exercised in these decisions, UNICOR will always give careful consideration to a customer's request. It is guided in all its decisions by its commitment to "Total Customer Satisfaction."

A. Requests shall contain the following information:

1. As complete a description as possible of the required items: e.g., National Stock Number, descriptive literature such as cuts, illustrations, drawings, and brochures that explain the characteristics and/or the construction. When applicable, e.g., items built to a military or Federal specification, a complete technical data package should be submitted.
2. Quantity required, price of preferred item and required delivery date.
3. In situations where the waiver request is based on functional differences, a comparison of the functional differences between the requested item and the "schedule" item should be provided identifying as a minimum:

   (a) inadequacies of the "schedule" item to perform the required functions; and
   (b) economic, or other advantages of the item requested.

4. Estimated annual usage or future need for similar items or a statement that the requirement is nonrecurring and no future need is anticipated. Indicate if this or similar items have previously been purchased from UNICOR.

B. UNICOR delivery schedules are consistent with delivery schedules for comparable items appearing on General Services Administration Federal Supply Schedules (FSS). Where schedules for comparable items do not exist, deliveries are consistent with good commercial practices. In the event that delivery terms shorter than normally available from the FSS or commercial sources are required, certification, in writing from the contracting officer must be provided stating the reason for the shorter delivery requirement.

C. All factors are considered when a determination is made. This includes customer needs, current factory loading and future requirements. Each request is evaluated on its own merits. UNICOR policy does not permit blanket waivers but evaluates each request on a case-by-case basis considering, primarily, the needs of the customer.

D. Appeals to waiver denials can be made by forwarding reasons for the appeal to the Customer Service Manager by letter. Please note in your transmission that this is an appeal and reference the original waiver identification number. Appeals should be transmitted no later than 30 days after receipt of the original decision.

E. Every attempt will be made to respond to waiver requests and appeals within five (5) working days of receipt.

F. Ordering offices should not initiate action to acquire similar items from sources other than UNICOR until a request for waiver is approved.

To check the status of your request or to inquire about prices, delivery, order status or other concerns please call the UNICOR Customer Service Hotline:

1-800-827-3168

BEST COPY AVAILABLE

WAIVER GUIDELINES

I. WAIVER REVIEW TEAM

Each product division will establish a Waiver Review Team consisting of at least two members. The permanent member and leader of the team will be the Assistant Division Manager, or in the absence of an Assistant Division Manager, a person designated as team leader by the Division Manager. The other member(s) of the team will be the Industrial Specialist(s) for the product under waiver review.

In the event of a customer appeal to a waiver, the final decision on the appeal will be the responsibility of the Division Manager. The Assistant Division Manager, or a person designated as the team leader, will make recommendations to the Division Manager.

Processing of waiver requests and appeals will be in accordance with the instructions in the Waiver Processing Procedure.

The Waiver Review Team will review all waiver requests and render a decision based on the following guidelines:

II. GUIDELINES

A. **Pricing:**
UNICOR is mandated to provide products at "not to exceed current market price." Current market price is determined in the following ways:

1. Federal Supply Schedule (FSS): If a comparable product is on a GSA/FSS, the schedule prices will determine current market price.

2. Industry comparison: When a comparable product is not on an FSS, but is generally available from private sector manufacturers, a review of private sector prices will be used to establish a "range" for current market price. This range determines the current market price.

3. Where comparable products cannot be identified or where a customer requests special modifications to a UNICOR product or where UNICOR has been the sole provider of a product, current market price is determined by our cost to manufacture (including applicable overhead and administrative costs) plus a reasonable return as determined by Corporate Management.

Waivers based on price will not ordinarily be issued when the product does not exceed current market price as defined above. However, where there is no genuine comparability between UNICOR's product and the product required by the purchaser, waivers may be granted even though UNICOR's price for its product does not exceed the current market price. Factors to be considered in determining whether products are comparable include quality and similarity of materials, methods of construction, product durability, presence of ancillary features, warranties, etc.

B. **Delivery:**
UNICOR deliveries will be consistent with the deliveries for comparable products on the Federal Supply Schedule (FSS), or with good commercial practice when an FSS does not exist. When customers request delivery times shorter than those quoted for comparable products on the FSS, or than is available under good commercial practice, a letter from the contracting officer is required stating the reasons a shorter delivery is needed and attesting to the fact that the products required are available from an alternative source in the time frame required.

Waivers will not be issued when UNICOR can meet the delivery criteria stated above, unless an acceptable reason for a shorter delivery date is provided.

C. **Performance characteristics:**
When a waiver is requested based on an assertion that UNICOR's product will not perform as well as another or in the manner desired by the customer, the contracting officer must provide, in writing, details describing the non-conformance characteristics of the UNICOR product.

D. **Aesthetics or matching existing items:**
Generally this is not an acceptable reason to grant a waiver. However, discretion will be used. For example, where additions are being made to a building where competitive products are installed, and new products would be in close proximity to existing items, waivers may be justified. Also, waivers will be considered for installation compatibility, as in the case of systems furniture and shelving.

E. **Commerce Business Daily (CBD) Announcements:**
In order to avoid a situation where UNICOR exercises its statutory preference after a private sector company has gone to effort and expense preparing a bid package, UNICOR will exercise special care with regard to procurements that have been announced in the Commerce Business Daily. Although solicitations for products manufactured by UNICOR should not appear in the CBD without first obtaining a waiver from UNICOR, occasionally through error such solicitations do appear. The Federal Acquisition Regulations (FAR), subpart 5.203, require a fifteen (15) day waiting period between the date of the CBD synopsis and the issuance of solicitations. Therefore, UNICOR will exercise its preference by requesting cancellation of the solicitation only during this waiting period.

WAIVER REQUEST SUMMARY 04/23/93

Request received From: 10/01/93 THRU 04/23/93 (5 DAY PROCESSING GOAL

REQUESTS	PROCESSED	TURNAROUND W/I GOAL	TURNAROUND PAST	PENDING	AVG DAY PROCESS	DISPOSITION A	DISPOSITION D
4098	3955	3218	737	143	4	3897	58

From 10/1/92 → 4/23/93
81% of waivers processed were done so within goal;
avg. processing time = 4 days

WAIVER REQUEST SUMMARY 04/23/93

Request received From: 04/01/93 THRU 04/23/93 (5 DAY PROCESSING GOA

REQUESTS	PROCESSED	TURNAROUND W/I GOAL	TURNAROUND PAST	PENDING	AVG DAY PROCESS	DISPOSITION A	DISPOSITION D
647	582	556	26	65	2	574	8

For month of April, '93
96% of waivers were processed w/i goal;
avg processing time = 2 days

BEST COPY AVAILABLE

UNICOR

SERVICES

SUPPORT YOU DESERVE FROM A CORRECTIONAL PROGRAM YOU NEED

U.S. Department of Justice
UNICOR
Federal Prison Industries, Inc.
109-93

UNICOR, Federal Prison Industries offers a broad variety of high-caliber services that can enhance your human and financial resources. If you have equipment to repair, furniture to refinish, data to input, or a job to print and distribute, call UNICOR. We'll give you the support you need.

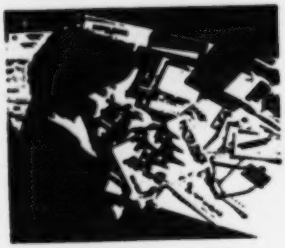
➧ PRINTING

Seven regionally located print facilities enable UNICOR to offer a full range of printing and related services.

- *Single & Multi-Color*
- *Long or Small Runs*
- *Booklets, Pamphlets, Brochures*
- *Envelopes and Stationery*
- *Carbon Interleaf Forms*
- *Carbonless & Continuous Forms*
- *Binding Services*
- *Recycled Stock*

UNICOR is an authorized alternative printing source to the U.S. Government Printing Office.*

* Per the Joint Committee on Printing, Congress of the United States, Government Printing and Binding Regulations, No. 24, dated 47, p.24.



➧ DISTRIBUTION

UNICOR offers a broad array of distribution services for every distribution need. One-time mailings, periodic bulk projects, kits, videos - in fact, anything that is warehoused and distributed - UNICOR can do the job. Our capabilities include:

- *Mail Preparation*
- *Copying*
- *Lot File Management*
- *Inventory Management*
- *Bulk Mailings*
- *Zip + 4*

Our modern Texas facility will print or copy your documents or manuals and store them until needed. We'll then assemble, fold and insert them, apply your mailing labels, pre-sort by zip code and ship them. We can even supply "G" permit imprints. And, UNICOR guarantees compliance with all postal regulations.

➧ DATA SERVICES

UNICOR Data Services has the resources and expertise to handle virtually any information management problem quickly, economically and professionally. Our services include:

- *Data Entry*
- *Word Processing*
- *Data Encoding*
- *Scanning/Imaging*
- *Data Base Management*
- *Lot Management*

Our many capabilities have been applied to a variety of projects, including:

- *Technical Manuals*
- *Training Manuals*
- *Textbooks*
- *Policy Manuals*
- *Patent Applications*
- *Legal Documents*
- *Medical Records*
- *Standard Forms*
- *Scannable Images*
- *Statistical Data*
- *Engineering Drawings*
- *Aperture Cards*
- *Maps*

Your data is always delivered in a form that is compatible with your system and is available in a variety of state-of-the-art media, including CD-ROM.

BEST COPY AVAILABLE

EQUIPMENT REPAIR AND REMANUFACTURING

Before disposing of that old engine part, send it to UNICOR. We'll repair or rebuild it, and you'll have a good-as-new component that meets all required specifications, all for about 60 percent or less of the cost of a new one. We have Texas and California facilities ready to serve you, and East Coast sites are on the way.

Here's just a small sample of the components we can repair:

- Alternators
- Generators
- Starters
- Regulators
- Electric Motors (up to 50 hp)
- Transmissions
- Floor Jacks
- Hydraulics
- Forger Motors
- Pallet Jacks
- Fork Lifts

UNICOR can also extend the life of costly cable assemblies and wiring harnesses by replacing necessary wires, cables or connectors, and re-loading them to original specifications.

ASSEMBLY AND PACKAGING

Regardless of the items involved, UNICOR's Assembly Service can package, warehouse and ship your assembled items to you, or directly to your end-user.

LASER CARTRIDGE REMANUFACTURING

UNICOR's new Laser Cartridge Remanufacturing Service can remanufacture your used cartridges and return them to you good as new for about half the cost of a new one. We'll refill the toner, clean and replace worn parts, install new, long-life drums and test for quality. Your remanufactured cartridge will be unconditionally guaranteed or we'll replace it with another remanufactured cartridge.

TELEPHONE AND CUSTOMER SUPPORT

Courteous, professional telephone services can be yours at a reasonable price through UNICOR Telecommunication Services. We'll customize a program to fit your special needs, including bilingual personnel and nationwide networking.

UNICOR guarantees, without time limitation, that all work will be performed to customer requirements and specifications.

FURNITURE REFURBISHING AND REFINISHING

UNICOR's Furniture Refurbishing/Refinishing Service can give sofas, chairs, desks, file cabinets, and more, years of extra life. Our experienced craftsmen will rehabilitate your furniture in our modern Texas and Virginia plants, and do it for less than the cost of replacement. We offer:

- Reupholstering
- Frame Repair
- Spring Replacement
- Metal Refinishing
- Webbing
- Padding
- Wood Refinishing
- Tying
- Fire Retardation
- Textile Repair

UNICOR, YOUR NO.1 SOURCE FOR SERVICES

As part of the Federal Bureau of Prisons, within the Department of Justice, Federal Prison Industries, Inc. - known more popularly by its trade name, UNICOR - has been providing 'Total Customer Satisfaction' to Federal patrons since 1934.

The UNICOR services we've shared with you through this brochure are only representative of our many capabilities. We're always ready to explore new ways to serve you, our customer. So, if you need help with any labor intensive project that touches, however remotely, on any of our services, we invite you to call. We'll be happy to discuss it with you and quote prices. We want to be your No.1 source for services.

U.S. Department of
UNICOR
Federal Prison Industries
Graphics & Services Division
Telephone: (202) 508-8462
320 First Street, N.W.
Washington, DC 20534
Customer Service: (800) 827-3161
Facsimile: (202) 438-1997

Catalogs about other UNICOR p
and services, and UNICOR's wo
are available upon request.

BEST COPY AVAILABLE

APPENDIX 8.—LETTER FROM HON. WILLIAM J. HUGHES, CHAIRMAN, TO SUE PERRY, DIRECTOR, GOVERNMENTAL AFFAIRS, BUSINESS AND INSTITUTIONAL FURNITURE MANUFACTURER'S ASSOCIATION, APRIL 8, 1993 (NO RESPONSE WAS RECEIVED)

ONE HUNDRED THIRD CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6218

April 8, 1993

Ms. Sue Perry
Director of Government Affairs
Business and Institutional Furniture
Manufacturer's Association
2335 Burton Street, S.E.
Grand Rapids, Michigan 49506

Dear Ms. Perry:

Thank you again for testifying at the March 11 oversight hearing on Federal Prison Industries, Inc. (FPI). There are a few issues I would like to follow up on from your testimony so that the information is available for the hearing record. Your responses will assist in the decisions which will need to be made concerning FPI.

In response to a question from Representative Schiff, you indicated that you had specific examples of government agencies paying higher prices for FPI products than if purchased from private industry and examples of FPI bids that were considerably higher than private industry bids for the same product. Please provide details of these examples and, if possible, any supporting documentation.

The second issue relates to the suggestions you provided as to the types of alternative work which could be performed by prisoners without as much impact on private industry. One suggestion was recycling, another was development of food processing and the third related to the manufacture of solar stoves to be utilized in lesser developed countries as an alternative to wood fuels. You did not have an opportunity to elaborate on these projects at the hearing. Could you please answer the following questions in relation to these suggestions?

1. If any of the suggestions were adopted, does the furniture industry support a change in the statute to permit FPI the right to sell either products or services to the private market (it is presently limited to the government market) and to provide prison products outside of the United States?

2. Has the furniture industry initiated or completed any market studies to determine the market for the products or services suggested and what would be the available market?

3. If any of the suggestions were adopted, or any other suggestion, what percentage of FPI furniture business do you anticipate being reduced through other business activities?

I appreciate your assistance in responding to these questions. If you have any questions or need additional information, please contact Jarilyn Dupont with the Subcommittee on Intellectual Property and Judicial Administration. I am hopeful that we will be able to fashion a compromise that will benefit all parties and still address the needs of an increasing prison population.

Sincerely,

William J. Hughes
Chairman
Subcommittee on Intellectual Property
and Judicial Administration

WJH:jd

ISBN 0-16-043637-0